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LEGAL MEASURES ON THE PHARMACEUTICAL PROFESSION AND THE ACCESS INTO THE ASIAN ECONOMIC COMMUNITY (AEC)

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Abstract: The Law of Healthcare Professionals in Thailand may need to be updated to reflect and respond to the policy of the ASEAN Economic Community (AEC), established by the 10 ASEAN countries that allow free flow of goods, services, investment, and skilled labor. Following the policy of the AEC, the 10 ASEAN countries, including Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, Viet Nam, have jointly agreed to accept in the qualified profession of the Mutual Recognition Arrangement (ASEAN MRA). The ASEAN MRA provides framework to support the liberalizing and facilitating trade in service. Presently it targets professionals/skilled workers in seven fields, including engineering, architecture, surveying, medical professions, dental practice, nursing and accountancy. The pharmacy profession, written in the Law of Healthcare Professionals in 1937 and transferred to the Pharmacy Act in 1994, as amended to date in 2015, is one of the regulated medical professions that will be affected by this common AEC policy. The pharmacy profession is not listed in MRA but it is subject to the agreement of the ASEAN community because the practice in each member country follows different regimes and regulations. For example, there are different programs in the Bachelor of Pharmacy (B.Pharm) and the Doctor of Pharmacy (Pharm.D) in each country. In order to achieve the issue of pharmacy professions, the agreement on the mutual recognition of the professional qualifications in ASEAN may need to be considered in detail to ensure the same standard, taking into account the national requirement of the performances of pharmacists, and the national strategy on manpower and economic growth.

Keywords : Legal measures, Pharmacy profession, ASEAN Economic Community : AEC, Mutual Recognition Arrangement: MRA

บทคัดย่อ: กฎหมายเกี่ยวการประกอบวิชาชีพด้านสุขภาพในประเทศไทยได้มีการปรับปรุงอันเนื่องมาจากจากนโยบายร่วมกันของสมาชิกในประชาคม อาเซียน 10 ประเทศ ซึ่งใต้มีข้อตกลงร่วมกันด้านเศรษฐกิจในการเปิดเสรีทางการค้า โดยที่ประเทศสมาชิกได้มีการจัดตั้งประชาคมเศรษฐกิจอาเซียน (ASEAN Economic Community หรือ AEC) เพื่อให้สามารถเคลื่อนย้ายสินค้า บริการ การลงทุน การเงิน และแรงงานฝีมือ อย่างเสรี จากผลความตกลงร่วมมือดังกล่าว ประเทศไทยจะมีการเคลื่อนย้ายแรงงานเสรือาเซียน โดย 10ประเทศสมาชิกอาเซียน ได้แก่ บรูใน กัมพูชา อินโดนีเซีย ลาว มาเลเซีย พม่า ฟิลิปปินส์ สิงคโปร์ ไทย และเวียดนาม ได้มีการร่วมกันจัดทำความตกลงยอมรับร่วมในคุณสมาชิกน้าสิงหวิชาชีพของอาเซียน (Mutual Recognition Arrangement: MRA) เป็น คุณสมบัติขั้นต้นของแรงงานฝีมือใน 7สาขา ได้แก่ วิศวกรรม สถาปัตยกรรม การสำรวจ แพทย์ ทันต์แพทย์ พยาบาล และบัญชี ซึ่งจะช่วยให้นักวิชาชีพ สามารถเข้าไปทำงานในประเทศสมาชิกอาเซียนได้สะดวกมากขึ้น โดยไม่ต้องผ่านขั้นตอนการตรวจคุณสมาชิพิ้นพื้นฐาน วิชาชีพเกสัชกรรมเป็นหนึ่งใน วิชาชีพทางการแพทย์ที่มีการควบคุมการประกอบวิชาชีพเกสัชกรรมออกมาในปีพุทธศักราช 2537 จนถึงปัจจุบันเป็นฉบับแก้ไขเพิ่มเติมในปี พ.ศ.2558 ถึงแม้ว่าวิชาชีพเกสัชกรรมจะยังไม่อยู่ในกลุ่มวิชาชีพเกสัชกรรมจะยังไม่อยู่ในกลุมวิชาชีพเกสัชกรรมจะยังไม่อยู่ในกลุมวิชาชีพถารเขาสนายที่แตกต่างกัน รวมถึงหลักสูตรการผลิตเกสัชกรนั้นที่มีทั้งระบบ Doctor of Pharmacy (Pharm D) และ Bachelor of Pharmacy (B. Pharm) ดังนั้นการจัดทำความตกลงขอมรับร่วมในคุณสมบัตินักวิชาชีพเกสัชกรรมของอาเซียนอาจด้องมีการพิจารมาดับละเกียดเพื่อให้เป็นมาตรฐานเดียวกันหรือเพื่อให้เข้ากับลักษณะการประกอบวิชาชีพในแต่ละประเทศที่มีความต้องการในคุณสมบัติของเกสัช กร กำลังคน และความเจืองการใจขนายเพื่อให้เข้ากับลักษณะการประกอบวิชาชีพในแต่ละประเทศที่มีความต้องการในคุณสมบัติของเกสัช กำลังคน และความเจริญของประเทศที่แตกต่างกัน ซึ่งอาจจำเป็นต้องมีการประกอบวิชาชีพในแต่ละประเทศที่มีความต้องการในคุณสมบัติของเกสัช กำสนคขึ้น

คำสำคัญ : มาตรการทางกฎหมาย, วิชาชีพเภสัชกรรม, ประชากมเศรษฐกิจอาเซียน, ความตกลงขอมรับร่วมในคุณสมบัตินักวิชาชีพของอาเซียน

INTRODUCTION

In 2015, a total of 10 ASEAN countries have become the ASEAN Economic Community. The 10 ASEAN member countries comprise Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, The Philippines, Thailand, Singapore and Vietnam. The goal of establishing AEC is to transform the region into a single market and production base with a highly competitive advantage to make it a stable and prosperous region. To synergize the region's markets and production hubs, this would entail the free flow of goods, services, investments, capital, and skilled labor.

Medicinal products are moving freely in ASEAN countries, the regulatory guidelines for the registration of various medications have been improved, negotiated, and modified accordingly to meet the standard of each country.

In the services, the legal principle to work in any country is to ask for permission especially the specific profession that has been regulated and controlled by the public authorities and the council in each country. Therefore, the legal specifications and regulation of each profession in the country must be studied.

The ten nations of ASEAN have prepared the Mutual Recognition Arrangements (MRA), which specify the basic qualifications for seven groups of professionals to work freely in each other's countries. These groups are Engineering Services, Architectural Services, Surveying Qualifications, Medical Practitioners, Dental Practitioners, Nursing Services and Accountancy Services. MRAs aim to facilitate mobility of professionals/ skilled labor in ASEAN. It is meant to set regional standards and elevate the quality of local professions. These professional have to abide by local regulations. This means that the individuals are required to pass local licensure and certification laws in order to being employed within the countries of ASEAN.

For instance, in health profession MRA on nursing services, a foreign nurse may apply for registration or license to be recognized and allowed to practice nursing in accordance with the laws and regulations of the host country, subject to the following conditions. First of all, a nursing qualification must be granted. A valid professional registration and/or license from the country of origin and a current practicing license or certificate or any relevant certifying documents must be possessed. In addition, a foreign nurse must have at least three continuous years in nursing practice prior to the application. Professional Development in nursing must be continued as may be mandated by the Nursing Regulatory Authority (NRA) of the country of origin. Furthermore, no record or pending investigation of having violated any technical, professional or ethical standards, local and international, for the practice of nursing from (NRA) of the country of origin must be certified. Moreover, a foreign nurse must submit personal medical examination and induction program or a competency assessment must be undergone.

Subject to domestic laws and regulations, a foreign nurse who satisfies the conditions as stated above is deemed eligible to work in the host country. A foreign nurse who is granted registration or license in the host country to practice nursing shall comply the codes of professional conduct in accordance with the policy on ethics and conduct on the Practice of Nursing established and enforced by the host country. Domestic laws and regulations of the host country, including rules and regulations governing the practice of nursing must be prevailed. Besides, any requirements for an insurance liability scheme of the host country must be subscribed. A foreign must respect the culture and religion of the host country.

In general, Pharmacists must be registered with the Board, and meet the Board's registration standards in order to hold a license to practice their professions. To be licensed as a pharmacist, education, examination, and experience requirements must be met.

In addition, the specific rules and regulation of the qualification requirement for licensure may differ. Standards and role of the pharmacy profession would have to be adjusted to comply with the policy and the terms of the ASEAN Economic Community (AEC).

Even though pharmacy profession is not yet part of the MRA, once it is listed in the MRA, there will be a freer movement of skilled pharmacists in ASEAN countries.

This research study is to focus on the issue of legal work permit, qualification of pharmacy professions and pharmacy licensure registration of the 10 ASEAN countries and to compare potential requirement restrictions or problems in the Mutual Recognition Arrangements of the pharmacy profession.

MATERIALS AND METHODS

This qualitative research is to study about pharmacy profession practice law, work permit law, pharmacy registration and MRA principles of the skilled labor in 10 ASEAN countries. Information can be obtained by using the web sites and documents related to private and public sectors, such as the Ministry of Health, Ministry of Labor, government agencies, Pharmacy Council and Pharmaceutical Association of ASEAN countries.

The data were compared and analyzed using content and thematic analysis, a method used in qualitative research.

RESULTS AND DISCUSSION

All foreign pharmacist can enter in member of AEC by registration at Phar Department of Immigration and National Registration for work permit and professional license.

Work permit in AEC Brunei

All foreign visitors need a visa to enter Brunei, but ASEAN countries can visit visa free for shorter tourist, business, or professional visits:

- 14 days Cambodia, Indonesia, Laos, Myanmar, Philippines, Thailand, and Vietnam
- 30 days Singapore

Before a foreign worker can enter Brunei and begin working, they must obtain an Employment Visa and an Employment Pass from the Department of Immigration and National Registration. An Employment Pass is valid for 2-3 years and can be extended 2-3 years each time. A foreign worker must then register with the National Registration Identity Card system for a Smart Identity Card (Green).

Cambodia

All nationals from ASEAN countries are eligible for visa exemptions:

- 30 days Indonesia, Laos, Malaysia, Singapore, and Vietnam
- 21 days Philippines
- 14 days Thailand, Brunei, and Myanmar

To work in Cambodia, a foreigner must have a valid business visa and work permit. There are two types of work permits for foreign workers, temporary and permanent. Temporary work permits are only valid for the period of the business visa and are issued for the following

job descriptions: staff and management specialists, technical staff, skilled workers, and service providers. A permanent work permit is initially valid for two years.

Indonesia

Foreign visitors from all ASEAN countries, Brunei, Cambodia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam, can enter Indonesia visa free for 30 days.

A potential foreign worker must have a sponsoring company in Indonesia, and this future employer is responsible for completing all applications and obtaining all approvals before their foreign employee can begin working.

Laos

All foreign visitors need a visa to enter Laos except for nationals from 13 countries that are eligible for visa extensions:

- 14 days Brunei
- 15 days Japan, Luxembourg, Russia, South Korea, Switzerland
- 30 Days Cambodia, Indonesia, Malaysia, Philippines, Singapore, Thailand, Vietnam

To work in Laos, a foreigner must have a business visa (B2 Visa) and a work permit and residence card. Under the Lao PDR Labor Law amended in 2006, a business can hire foreign workers, but must give priority to Lao citizens. Also, foreign employees can only make up a maximum of 10% of a company's unskilled labor force and 20% of its skilled labor force

Malaysia excluding Sabah, Sarawak, and Labuan

Visitors from 89 countries, including all ASEAN countries, can enter visa free for 30 days. However, visitors cannot be involved in any activities considered employment.

All foreign workers must have an employment pass to work and must have a sponsor in Malaysia who agrees to support them financially and return them to their home country if necessary. Two common employment passes are the Employment Pass and the Professional Visit Pass.

An Employment Pass (EP) is issued to foreigners who qualify for employment in key managerial positions in foreign owned companies based in Malaysia, in professional or mid-level managerial positions, or in highly skilled non-executive positions. An EP is valid for a minimum of two years and has minimum salary requirements. A foreign worker also needs to register for an i-Pass at the local Immigration Office. The i-Pass is an official identification document and also allows a foreigner to travel in Malaysia without a passport.

A Professional Visit Pass (PVP) is issued for qualified foreigners with specific professional experience or specialist skills that remain employed by a company in their home country or country of residence and work for a Malaysian company for a period not exceeding 12 months. The employment categories include government advisor, professor, researcher, consultant, technical advisor, installation, maintenance, repair of machinery, or any expert in a specific field approved by the Immigration Department.

Myanmar

All foreign visitors need a visa to enter Myanmar except for nationals from Brunei, Laos, Cambodia, Philippines and Vietnam who can enter visa free for 14 days. Myanmar does not have a comprehensive work permit system, so most foreign workers must apply for a business visa, a stay permit, and a multiple re-entry permit if needed. At this time, the longest a foreigner can

stay in Myanmar at one time is 70 days. A business visa can be single entry for 70 days or multiple entry which allows for multiple 70-day visits over a period of six to twelve months.

A Stay Permit allows a foreigner to work for either a three-month or one-year period and is single entry. Only foreigners working in managerial or supervisory positions or in jobs that require expertise or special skills are eligible, and preference must be given to Myanmar citizens.

Philippines

Under the Philippines visa waiver program, foreign visitors from over 151 countries, including all ASEAN member states, can enter the Philippines for tourism purposes without a visa for up to 30 days. For longer stays and for business and other non-immigrant visas, all nationalities must apply at a Philippines embassy or consulate. Visitors can conduct business activities such as attending meetings and conferences, contract negotiations, investigating investment opportunities, client and factory visits, and sales calls to potential local clients, but cannot be involved in any activities considered employment.

To work in the Philippines, all foreign nationals must first obtain an Alien Employment Permit (AEP) from the Department of Labor and Employment (DOLE) and must have a local sponsor file the application. Only after the AEP is approved, a foreigner can apply for a work visa. Two common work visa types are the 9(g) Pre-Arranged Employment Visa which is issued for pre-arranged employment in executive, technical, or managerial positions and the Special Non-Immigrant 47(a)(2) Visa which is issued for foreign workers in enterprises in industries invested with public interest or with public policy considerations..

Singapore

Before commencing employment in Singapore, a foreign worker must obtain a work pass from the Ministry of Manpower. An Employment Pass (EP), a Personalized Employment Pass (PEP) and an Entre Pass are available for foreign professionals working in managerial, executive, or specialized positions. Mid-level skilled foreigners are eligible for an S Pass, and Work Permits are granted to unskilled foreign workers. The most common work pass for a foreigner in Singapore is an Employment Pass. Employment Pass (PEP) is issued to a foreign worker as an individual, not the company or business they work for, and allows certain types of foreign workers a great deal of job flexibility.

Thailand

All nationals from ASEAN member states can visit visa free for 30 days, whether arriving by air or at a land crossing. In Thailand, almost all business activities are considered employment and require a work permit and visa to perform. These include sales calls, business meetings, conducting conferences or seminars, and non-profit and charity work.

To work in Thailand, all foreigners must have a valid non-immigrant B visa (Non-B Visa) and a work permit. The Immigration Bureau is responsible for all visas, and a foreign worker must obtain a Non-B Visa from a Thai embassy or consulate before entering Thailand. The Department of Employment in the Ministry of Labor is responsible for work permits and labor matters for foreigners. A work permit must be sponsored by a qualified Thai entity and many supporting documents are required. Under the Alien Occupation Act, foreigners are prohibited from working in 39 occupations including manual labor, agriculture, forestry, fishery, farm supervision, accountancy, civil engineering, and architectural work. Employment is forbidden until a work permit has been obtained. After the work permit is issued, the foreign

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worker must apply in person for a visa extension from the responsible Immigration office, but only 30 days before the initial visa expires.

Vietnam

All foreign visitors from ASEAN countries can enter visa free for tourism purposes:

- 30 days Cambodia, Indonesia, Laos, Malaysia, Singapore, and Thailand
- 21 days Philippines
- 14 days Brunei and Myanmar

Only executives, managers, specialists, and technical workers are eligible for a work permit. An important requirement, is that an employer must file a yearly report of demand on their use of foreign workers to the local Department of Labor for approval by the People's Committee. Reports on demand must also be done if the number of foreign employees changes. As a pre-requirement to recruit a new foreign worker, the employer must get approval from the local People's Committee, and an application for a work permit cannot be processed until gaining this approval.

Professional license

Pharmacist control in ASEAN can be divided into two groups:

• Pharmacy council

Thailand, Singapore, Philippines and Cambodia.

• Board of Pharmacy by Ministry of Health.

Malaysia, Indonesia, Loas, Myanmar, Brunei and Vietnam.

To be licensed as a pharmacist in ASEAN, you must have obtained a bachelor degree in Pharmacy from an accredited college or university. In some countries such as Cambodia, Laos, Myanmar, Graduates from some accredited universities are so given licenses automatically whereas graduates from some other countries are required to take the registration examination for the professional licensures arranged by Pharmacy council or Board of Pharmacy

Typically, the curriculum and institution accreditation in each ASEAN country are different. Pharmacy education system can be categorized into two paths: academic knowledge and research and practical knowledge and skills

Academic knowledge and research

a four -five years program

Undergraduate: Bachelor of Pharmacy or B.Pharm

Graduate: Master of Pharmacy or M.Pharm and Doctor of Philosophy or Ph.D

Practical knowledge and skills

a six years program

Doctor of Pharmacy or Pharm. D

Specialist

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Academic knowledge and research	Practical knowledge and skills
Ph.D.	Specialist
M.Pharm.	Pharm.D.(6 years)
B.Pharm(4-5years)	

Figure 1. Pharmacy education in ASEAN has 2 tracks

The study shows that Pharmacy education in Thailand is unique. This is because the pharmacy curriculum consists of Pharm.D, M.Pharm and Ph.D. but currently Thailand Pharmacy council only accredited Pharm.D graduate, the practical knowledge and skills, on registration for the Pharmacist license.

academic knowledge and research	practical knowledge and skills	
Ph.D.	Specialist	
	-Pharmacotherapy	
	-Pharmaceutical and Health Consumer Protection	
M.Pharm.	Pharm.D.(6 years)	
	Pharmaceutical care	
	Pharmaceutical industrial	

Table 1. Pharmacy education in Thailand

The Thai PharmD curriculum(Teeraporn,2014), which differs from the US Pharm.D curriculum, was adapted with the aim to meet the country's needs and includes industrial pharmacy and public health tracks as well as practical knowledge and skills track. The Pharm D program in Thailand with 4 tracks (pharmaceutical care, industrial pharmacy, specialized tracks, and an international program) differs from the Pharm D model in the United States, which offers a patient-focused curriculum as well as from models in countries such as Singapore and Malaysia, which only offer a Pharm D in pharmaceutical care.

academic knowledge and research	practical knowledge and skills	
Ph.D.	Specialist	
M.Pharm.	Pharm.DPharmaceutical care	
B.Pharm(4-5 years)		

Table 2. Pharmacy education in ASEAN

Pharmacy education in ASEAN

Normally, all ASEAN countries except Thailand still accredit B.Pharm, but not Pharm.D program. It can be seen that the educational standard of each ASEAN country is different which continues to be to a problem. Course accreditation in each country also varies. As a result, pharmacists lack of the qualification to the pharmacy license examination.

For example The National University of Singapore (NUS) Department of Pharmacy is the first and only Pharmacy school in Singapore. Pharmacists in Singapore currently undertake a four-year Bachelors of Pharmacy degree with pharmacy internship in the 4th year. This is a subsequent 9- month pre-registration, where a student trains in one practice setting only. If a student is placed in a hospital pharmacy, it typically includes rotations in the outpatient pharmacy. Singapore Pharmacy Council is a governmental organization for pharmacist registration. If graduated student want to be a pharmacy specialist in cardiology, geriatric pharmacy, infectious diseases, psychiatric pharmacy and oncology. Pharmacy Specialists Accreditation Board (PSAB) under SPC accredits pharmacy specialists. Students are required to have PGY1 and PGY2 or they have to have at least 3 years (continuous or otherwise) of working experience in the same specialty. Graduates from other countries from certain schools can also register to be pharmacists in Singapore. These countries include USA UK Malaysia, New Zealand, Ireland Canada and Australia.

CONCLUSION

The study shows that the legislative measures, rules and regulations in each country are different. Meeting and negotiation might be needed to minimize duplication of procedures, process and operations. These shall be adjusted accordingly. The complexity of work permit may be reduced since MRA is in place. When problems arise, the government of ASEAN member countries will solve them shortly.

For registered pharmacists, a problem that needs to be negotiated is not just the work experience but education and curriculum accreditation. These are the key issues. With different accreditation standard in each country, this will directly affect the registration. If set too high, the country with no Pharm.D. course will lack of opportunity to move to a pharmacist into another country. However, the arrangement needs to be considered, monitored and evaluated carefully.

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