

News from SMA Council

1. SMA MEDICAL STUDENTS' ASSISTANCE FUND

Following our earlier proposal to increase the bursary amount from \$3,600 a year per student to \$4,000 (November 2008 issue of SMA News), we have not received any objections. As such, the bursary amount will be increased to \$4,000 from 2009 onwards.

2. MARK YOUR CALENDAR

a. Annual General Meeting

Date: 5 April 2009 (Sunday)
Time: 2 pm
Venue: Alumni Auditorium

b. Annual Dinner

Date: 16 May 2009 (Saturday)
Time: 7.30 pm
Venue: Fullerton Hotel

c. National Medical Convention

Date: 11 July 2009 (Saturday)
Time: 9 am to 5 pm
Venue: Suntec Convention Centre
Theme: "Cancer Prevention – Breaking the Myths"

Look out for more details in your mailbag over the next few months or call the Secretariat at 6223 1264 or email sma@sma.org.sg

3. CHANGES TO MEDICAL REGISTRATION ACT

1. Submission by the Singapore Medical Association – Response to public consultation on proposed amendments to Medical Registration Act

The Council's response is reproduced here for members' information. Feedback received from members via email were also forwarded to MOH.

1.1 The Singapore Medical Association (SMA) provides the following feedback in response to the public consultation on the proposed amendments to the Medical Registration Act.

2. Widen spectrum of representation

2.1 SMA welcomes the proposed changes [s4(1) b], and would like to suggest that one seat each be reserved for the Academy of Medicine, Singapore (AMS), College of Family Physicians Singapore (CFPS), and SMA, in line with the Ministry of Health's (MOH) aim to "widen the spectrum of representation"¹.

2.2 In the spirit of self-regulation, the number of nominated SMC members should not exceed elected SMC members, and the SMC president should preferably be an elected SMC member.

3. Raise the overall standard of family medicine practice

3.1 We support the establishment of a Register of Family Physicians. [s22A]

4. Raise the standard of specialty care

4.1 We have no objections to the proposals to define sub-specialties. [s35]

5. Enhance medical registration process and safeguard ethical and professional standards

5.1 SMA has no general objections regarding proposed changes to full, conditional, and provisional registration.

5.2 For housemen with poor performance, we recommend that cancellation of their provisional registration should only be invoked after a minimum period, e.g. 24 months, to allow them sufficient time and opportunities to improve on their performance.

6. Strengthen professional self-regulation, streamline disciplinary proceedings, and provide additional avenues

6.1 Generally, SMA does not object to the option of voluntary removal/suspension. However, the options to proceed via the full complaints process or otherwise must be made known to the doctor during the notification stage. [s37A]

6.2 We are concerned regarding the new terms (professional performance [s43(5)], professional services [s39(1)c], and professional assessment [s44] respectively) introduced relating to complaints against doctors. In particular, "professional services" under [s39(1)c] seems to be worded vaguely which may lead to non-medical related complaints being accepted, e.g. on pricing, friendliness, opening hours, language differences, etc. We suggest that the term "professional services" be defined clearly in the Act.

6.3 We are unable to understand the rationale to make provisions to allow the Complaints Panel to be bypassed for complaints relating to professional services and information touching upon physical or mental fitness [s39(3) & s39(4)b].

6.4 SMA supports the inclusion of a start date for complaints [s42(1)], so that each Complaints Committee has sufficient time to complete a comprehensive inquiry.

- 6.5 We are also encouraged by the inclusion of the option for the Complaints Committee to propose conciliation between the complainant and the doctor [s42(4)(b)].
- 6.6 While SMA accepts the option of lay-persons on the Disciplinary Tribunal and acknowledges that their expertise may be welcome in some instances as ad-hoc members or resource members, it objects to the proposed amendment to allow the option of appointing a judge, legal officer or senior lawyer as Chairman. Also, the Chairman should still be a SMC member.
- 6.7 The table of key revisions² presented together with the MOH press release contained the sentence “...retain the requirement for a senior doctor to be its chairperson but provide for the option of appointing a judge, legal officer or senior lawyer as chairperson.” (point 8). However, the relevant section [s49(1)] of the draft Bill does not make this distinction, and is silent on whether non-doctors could chair the Tribunal, if and only when a doctor is not available.
- 6.8 The landmark Gunapathy case³ in the Court of Appeal recognises that even judicial wisdom has its limits. CJ Yong in his judgment mentioned “We often enough tell doctors not to play god; it seems only fair that, similarly, judges and lawyers should not play at being doctors.” He also highlighted that “A judge, unschooled and unskilled in the art of medicine, has no business adjudicating matters over which medical experts themselves cannot come to agreement. This is especially where, as in this case, the medical dispute is complex and resolvable only by long-term research and empirical observation. Furthermore, the lawyer-judge in ‘playing doctor’ at the frontiers of medical science might distort or even hamper its proper development. Excessive judicial interference raises the spectre of defensive medicine, with the attendant evils of higher medical costs and wastage of precious medical resources.”
- 6.9 Along the same lines, we are deeply concerned that non-doctors could be empowered to chair a Disciplinary Tribunal when even the former CJ has noted that “A judge, unschooled and unskilled in the art of medicine, has no business adjudicating matters over which medical experts themselves cannot come to agreement”.
- 6.10 The entire rationale of the existence of the SMC is to have a self-regulatory body. Having non-doctors as the Chairman of the Disciplinary Tribunal completely defeats this purpose. Should MOH see the need for the complaints process to be driven by non-doctors, then it can set up a body separate from the SMC.
- 6.11 SMA is deeply concerned about the steep increase in the penalty limit from S\$10,000

to S\$100,000 [s52(2)d]. We hope MOH can elaborate in detail the reasons for a need to raise the amount by 10 times. If the penalty is raised by 10 times, then the corresponding fine for the offence of an unauthorised person acting as medical practitioner [s17(1) of current Act], should also be raised by 10 times, from the current S\$100,000 to S\$1 million. Unlicensed practice of medicine is at least as harmful to the public as errant doctors.

- 6.12 The rationale for seeking an explanation is tied to the fact that the association believes that since MRA was last amended in December 2002,
- the income of medical practitioners has not risen by ten-fold;
 - the cost of healthcare has not risen by ten-fold; and
 - the pain and suffering inflicted by errant doctors has not increased by ten-fold.
- 6.13 Similarly, we are concerned regarding the rationale to allow aggrieved complainants to appeal to the High Court [s54], because, at present, the complainant can already take a civil suit against the doctor independent of the complaint to SMC. As such, his/her rights are already safeguarded. We do not see how this right to appeal to the High Court will significantly improve the situation beyond potentially raising medical indemnity costs, and in turn, healthcare costs.

7. Other comments

- 7.1 We recommend that the authorities could consider seeking closed-door feedback from established professional medical groups (e.g. AMS, CFPS, SMA, etc) before the public consultation stage, for legislation that concerns and affects the entire medical profession.

8. Conclusion

- 8.1 We are encouraged to note that the Human Organ Transplant (Amendment) Bill tabled in Parliament incorporated feedback received during public consultation of the draft Bill. We hope that MOH will once again consider our recommendations and concerns, and refine the present MRA Bill so that both patient and doctor benefit from the changes made.

References:

- 1 <http://www.moh.gov.sg/mohcorp/econsultation.aspx?ecid=752>
- 2 http://www.moh.gov.sg/mohcorp/uploadedFiles/News/Press_Releases/2009/Press%20Release_MRA_Appendix_EMBARGOED.pdf
- 3 <http://www.singaporelaw.sg/rss/judg/8318.html> ■