Proposed Amendments to Medical Registration Act

We reproduce the following letters which were published in the Straits Times Online Forum on 15 June 2009. Members who wish to refer again to SMA's response to the public consultation on the proposed amendments can find it in the SMA News March 2009 issue.

No tension between legal and medical professions

I REFER to last Thursday's article, 'Law oversight could do good for medicine'.

There were points made that we think are misleading and unsubstantiated. The Academy of Medicine, College of Family Physicians and Singapore Medical Association (SMA), which represent the majority of doctors, do not favour certain proposed changes to the Medical Registration Act because these result in changing the nature of the Singapore Medical Council (SMC), a self-regulatory body of the profession funded by the annual subscriptions of doctors.

Doctors are subject to the rule of law. The article gave the impression that the patient's only initial recourse against errant doctors was through the SMC. In reality, the SMC cannot award damages to aggrieved patients and patients can and have bypassed the SMC by taking out civil suits against doctors.

That 'physicians do not fancy being told by attorneys how to practise their craft and they assume that malpractice suits only undermine their standing in the public's eye' is also untrue. SMC is advised by reputable law firms in Singapore and their lawyers are in attendance at disciplinary proceedings. The premise to have a legal chair is therefore confusing. We also foresee unnecessary complications should the legal chair differ in views with the legal advisers to SMC. A point to note is that lawyers do not sit as chair on the disciplinary panels of the other state-registered professionals, for example accountants, in Singapore.

What is particularly disappointing and presumptuous is the conclusion that there is an underlying tension between the legal and medical professions. The two professions have had a long history of collaboration and mutual respect evidenced by the existence of the Medico-Legal Society, a body to promote knowledge and higher standards of medico-legal practice.

While New Zealand, Victoria in Australia and Britain include non-medical practitioners in their disciplinary tribunals, it should be noted that they, unlike Singapore, have universal free health care. Also, the medical indemnity cost in Australia, for instance, is much higher than in Singapore. As an acknowledged medical hub, does Singapore need to ape the practices of other countries?

The medical profession remains unconvinced that we need a legal chairman at SMC. This is reinforced by the preliminary findings of SMA's poll. Of the 700 doctors who have responded in the first two days, the vast majority are not in favour of the appointment of a legal individual as chair of SMC's disciplinary proceedings.

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Punitive regulation may foster defensive medical practice

I REFER to last Thursday's article, 'Law oversight could do good for medicine'.

Patients and doctors are best served by a system of regulation that is effective, timely and fair, and not one just based on self-regulation. The decisions of disciplinary proceedings of a professional tribunal like the Singapore Medical Council (SMC), regarding professional misconduct by doctors, are one of ethical reasoning, judgment and decision making.

The reasoning and judgment are based not only on knowledge of the medical facts of the case but also on knowledge of ethical principles, professional values, virtues and competencies, relationships and behaviours unique to the doctor-patient relationship. The ability to make good judgment in these areas requires experience of the many difficult clinical encounters of life and death and the struggle with the many uncertainties in medicine.

Although judges may bring with them excellent reasoning skills, they may lack understanding of the clinical context in which these conflicts in medicine arise. The outcome in any such conflicts in the doctor-patient relationship depends on the particular facts and clinical context of the dispute.

The article proposes that the other changes - raising the maximum fine and uncapping suspension - are signs of a change in society's view of medicine. If it is true that the authorities and society, as claimed by the article, are of the view that the practice of medicine has become an impersonal marketplace, then it would be best to abandon the fiduciary basis of the doctor-patient relationship to one of a contractual relationship.

It follows then, that it is best to withdraw the disciplinary proceedings from the SMC. It would then best serve patients and doctors to set up a medical ombudsman and a medical court within the judiciary and court system. This would allow doctors to be judged by legal standards rather than professional ethical standards. This would change the standards in medical practice from traditional professionalism to responsible commercialism.

Strong punitive laws alone would not ensure the protection of patients' interests. Strong punitive regulation would promote defensive medical practice, resulting in loss of patient advocacy, and lead to unnecessary medical procedures to avoid regulatory retribution.

Strong public policy and medical leadership that is prepared to establish and develop medical professionalism based on competence, ethics and altruism are still the best assurance to protect the interests of patients and doctors.

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