



Transparency and the Singapore Medical Council

By Dr Jeremy Lim, Editorial board Member



The Singapore Medical Council (SMC) has come under media scrutiny recently with calls for SMC Disciplinary Committees/ Tribunals to be made more “transparent”. Are these criticisms warranted? What can be done?

Was medico-legal history created on 6 Feb 2010 with the publishing in the Straits Times of the article headlined “Prominent surgeon faces SMC hearing”? Hitherto, SMC disciplinary hearings had always been conducted far away from the harsh spotlight of media attention, with statements released to the public if and only if there was a conviction. Even then, the statements would be terse and many details of the charges absent. It would not be uncommon for the public to only know for example, that a particular doctor had been found guilty of inappropriately prescribing benzodiazepines without knowing the quantity, the motivations and other such salient facts. The complainant would also not be allowed to attend the hearing.

Contrast this with the situation in other jurisdictions such as New South Wales, Australia where disciplinary hearing reports, including outcomes and justifications, are published online unless specifically prevented by non-publication orders or statutory provisions prohibiting

publication. A casual browsing of the websites of the New South Wales Medical Board (<http://www.nswmb.org.au/>) and the New South Wales Government Healthcare Complaints Commission (<http://www.hccc.nsw.gov.au/Home/default.aspx>) will reveal that even the composition of the convening panel and the names of the involved legal counsel are made public. In all instances though, patient details are left sufficiently broad to prevent identification.

TRANSPARENCY... NOT FOR TRANSPARENCY'S SAKE

Minister Khaw in closing the recent debate on the amendments to the Medical Registration Act, acknowledged the calls from his fellow parliamentarians and explained the rationale for transparency: “We need efficient, transparent and fair processes in place to ensure that misconduct is dealt with speedily, in a way which will strengthen the good reputation that our medical profession enjoys, with justification”. It is noteworthy that Minister Khaw does not consider transparency or openness an end in itself but a means to a higher purpose,

the good reputation of the profession. This is not a unique policy position and even in America, President Obama has offered that the role of openness is to “strengthen our democracy and promote efficiency and effectiveness in Government”.

With this backdrop, how should this whole issue of transparency be considered? Two principles are pertinent: firstly, the public’s interest and release of information simply to satisfy clamour for salacious gossip is irresponsible and unfair. Secondly, while the recent amendments to the Medical Registration Act determine the objective of the Act as protecting “the health and safety of the public”, it does so through not only ensuring competence and upholding standards, but importantly, also by maintaining “**public confidence in the medical profession**” (emphasis added). Hence, the SMC needs to exercise judgment in disclosure to prevent undue erosion of confidence in the profession which will ultimately ill-serve the larger public interest.

Let us examine the two extremes of the spectrum of transparency against the positions of the patients, the physicians,

← Status Quo*		Full Disclosure** →
Minimal risk of identification; Unable to attend hearing	Patient	Increased risk of identification; Opportunity to confront defendant at hearing
No public reputational injury if not convicted	Physician	Public reputational injury possible even if acquitted
Perception of opacity damages profession's standing as placing patient and public interest ahead of its own	Profession	Poorly managed isolated cases of misconduct may tar the entire profession; May deter members from sitting in panels and hence erode ability to self-regulate; However, enhanced opportunities for learning from cases
Expressed dissatisfaction with status quo through media reports and parliamentary views	Public	May strengthen confidence in SMC processes OR may cause massive erosion in confidence depending on media portrayal and public reactions

* Closed hearings with only SMC panel, defendant and defence lawyers present; press release only if defendant convicted and minimal information provided on facts of the case and rationale for judgment

** As per Open Court- Public hearings open to any interested parties, patient's full clinical details revealed and contested openly; media free to cover story in real time; judgments publicly available

the profession and the public. In this rudimentary stakeholder analysis, it is clear that misguided transparency in the milieu of a hostile media and an uninformed public can be damaging to the profession, both through reputational loss leading to mistrustful doctor-patient relationships and impact on practice behaviour such as “defensive medicine”. Medicine and healthcare are so fundamental to population well-being that damage to the profession is ultimately detrimental to society.

At the same time, status quo is not a viable option. The public expects and perhaps even demands a higher level of

public accountability. It is not unreasonable for the public to want to be reassured that the profession is on a sound footing because the stakes are so high in medicine. However, precisely because the stakes are so high, we must tread with extreme caution.

MOVING FORWARD, BABY STEP BY BABY STEP

A calibrated and tentative, almost hesitant approach is warranted. The road to hell is paved with good intentions and we need to move gingerly so that any wrong footing can be rectified quickly without irreversible consequences. Perhaps an initial effort to provide more details of convictions

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– Health Minister Khaw Boon Wan

and explanation of the decisions and punishments can be made, which if well-received can be followed by disclosure of acquitted cases duly de-identified to foster deeper awareness amongst practitioners and the public of what are acceptable standards of practice and ethical behavior.

The disciplinary process effects justice. However, it is so much more than that. The disciplinary process must maintain confidence in the profession, maintain the profession's confidence in the disciplinary process and enable the profession collectively to learn and strengthen ourselves. Transparency is vital to achieving all these aims and needs to be enhanced gradually into the SMC processes. **SMA**



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