

# ADVERTISING & PRACTICE PROMOTION

## - PITFALLS AND BOUNDARIES

By Gracia Ong

The advent of new media channels has seen a veritable explosion of medical advertisements and with a gamut of options available - ranging from magazine write-ups to targeted Google ads and blogs, even Facebook pages for clinics - the medical landscape has evolved vastly from yesteryear. Dr Chong Yeh Woei, President of the Singapore Medical Association (SMA), remarked in his welcoming address that this has given impetus to doctors and medical institutions to advertise their products and services. As a result, it is imperative that the medical profession is aware and adheres to the existing ethical codes and guidelines on advertising. With this in mind, this year's SMA-MPS Seminar, "Advertising and Practice Promotion - Pitfalls and Boundaries", was held on 22 April 2010 at KK Women's and

Children's Hospital Auditorium. The speakers comprised Dr Albert Myint Soe, a partner at Myint Soe & Selvaraj, Dr T Thirumoorthy, one of the Board Directors of the SMA Centre for Medical Ethics and Professionalism, and Dr Tan Sze Wee, SMA Council Member and Chairman of the Advertising Standards Authority of Singapore (ASAS).

Firstly, Dr Myint Soe compared the Private Hospitals and Medical Clinics (PHMC) Act and the Singapore Medical Council (SMC) Ethical Code and Ethical Guidelines. Explaining the latter as having higher standards, he cited examples such as the Guidelines permitting only information that is "Not misleading", "Not laudatory", and "Not comparative", among others.

He also referred to the Advertising Guidelines published in May 1997 under the PHMC Act, as well as the PHMC (Publicity) Regulations published in May 2004 under the PHMC Act, and directed to licensees of a healthcare institution. Reiterating this point, Dr Thiru too elaborated that the Medical Registration Act (MRA) attests to the doctor-patient relationship as being fiduciary in nature, and as such, doctors must serve the patient's interests above those of the clinician. The publicity materials or advertisements by doctors must thus serve the best interest of the patients above personal interests. He mentioned that the more likely complainants on advertising would be from fellow doctors, or from the Ministry of Health, for example, over the use of unapproved specialty titles. As complaints made to



► Panelists Dr Myint Soe, Dr Tan Sze Wee, and Dr T. Thirumoorthy.

the SMC are naturally adversarial in nature, he encouraged doctors to use the SMA Complaints Committee to settle disputes among fellow doctors amicably in a collegial manner.

Dr Tan Sze Wee introduced ASAS as an Advisory Council under the Consumers Association of Singapore (CASE). He brought up examples of unfair practices of advertising such as “bait and switch” and high pressure selling tactics. He also highlighted that misleading or inappropriate ads could be suspended by ASAS with the assistance of the various media owners.

Posed with the query why sensationalised advertisements still remain prolific, Dr Tan answered that ASAS, with its limited resources, is unable to proactively monitor all media channels and publications, and so acts based on complaints received. In addition, advertisers have become shrewder to design their advertisements such that they are not directly falling foul of the guidelines.

It was questioned how to bring up such issues regarding healthcare establishments or fellow doctors, and Dr Thiru recommended writing in to the SMA Complaints Committee, which can mediate the dispute, even when it has no direct enforcement power. Dr Chong

also highlighted that the committee would provide expert opinion and ensure confidentiality, so as to maintain the collegiality of the doctors’ profession.

A member of the audience bemoaned the fact that doctors seemed to be forced into mimicking the advertising tactics of industries such as the aesthetic and beauty sector, as they continue to infiltrate the domain of doctors. With such strict guidelines in place for doctors, it would not make economic sense for doctors to advertise. To this, Dr Thiru replied that Medicine, being a profession, cannot be compared to trades or businesses. The “buyer beware” approach is not applicable to the doctor-patient relationship, which is based on trust.

Along the same line, it was queried if doctors were to be held liable when hospitals tie up with credit card companies for promotional services. Dr Myint Soe answered that such an advertisement would be considered as soliciting, and the PHMC Act would be targeted at the hospital licensee and/or management. He also explained that doctors would not be considered to be colluding if they billed their services/charges as per normal. In scenarios where the doctor is an employee, presenting a situation of power imbalance, doctors may have to consider banding together

to ensure that the appropriate standards are conformed to. He stressed that when called upon by the SMC, being “unable to influence” would not be considered a defense. Dr Myint Soe advised doctors under such circumstances when called upon by the SMC, to explain clearly the mitigating factors to the complaints committee, so that it would be taken into account.

In response to suggestions that a medical advertising agency could be set up to pre-vet advertisements, the panel unanimously felt that it would be best not to take a prescriptive stand. It would be more prudent to allow for creative licence in advertising, and consumer protection is better achieved through better awareness of advertising boundaries.

The SMA-MPS seminar closed to rousing applause, and the Singapore Medical Association sincerely thanks all speakers, panelists and attendees for contributing to the success of the event. **SMA**



▶ Dr Chong Yeh Woei



▶ Dr Myint Soe



▶ Dr T. Thirumoorthy.