

Submission by Singapore Medical Association (SMA) - Review of Singapore Medical Council (SMC) Ethical Code and Ethical Guidelines

The Singapore Medical Association (SMA) recently submitted a position paper in response to an invite from the Singapore Medical Council (SMC) to provide feedback on the SMC Ethical Code and Ethical Guidelines in preparation for an update of the Code. The position paper is reproduced below.

Preamble

- 1 The Singapore Medical Association (SMA) provides the following feedback in response to SMC's letter dated 30 September 2010, requesting for comments on the SMC Ethical Code and Ethical Guidelines.
- 2 Since the last revision of the SMC Ethical Code, the medical field has seen many advances in technology. New laws and amendments to existing ones have also come into being which affect medical practice. The medical landscape in Singapore and regionally has also shifted significantly, with prominent issues like medical tourism, foreign doctors, and patient rights. Lessons have also been gleaned from past SMC cases. Last but not least, current ethical issues like organ trading and genetic research are no longer hypothetical debates, but real cases right on our doorstep.
- 3 With this backdrop in mind, SMA makes the following comments, both specific and general, which it hopes will help doctors navigate the ethical dilemmas they face in their profession.

Specific comments

4 4.1.1.2 – Remote initial consultations (page 5)

- 4.1 SMA finds that the phrasing "...no consultation fee may be received" may not reflect technological advances in telemedicine

5 4.1.1.6 – Practise within competence and referral of patients (page 7)

- 5.1 SMA suggests that this section be modified to allow for scenarios where medical treatment may be truncated

6 4.1.2 – Medical records (page 7)

- 6.1 We recommend that the same strict standards of privacy and confidentiality currently applicable for hardcopy records be applied to electronic medical records

7 4.1.5 – Association with complementary medicine practitioners (page 8) and 4.1.6 – Association with persons not qualified to provide medical or medical support services (page 9)

- 7.1 What is acceptable in the medical profession has widened, with increased opportunities and pressure to associate
- 7.2 SMA proposes for what is deemed "unacceptable association" to be more clearly defined
- 7.3 SMA recommends a list of acceptable associations and a list of unacceptable associations to be included in this section
- 7.4 A distinction should be made between allopathic and homeopathic medicine when deciding on acceptable and unacceptable associations
- 7.5 Traditional Chinese Medicine (TCM) practitioners are now registered under law. Also, SMA notes the recent public consultation on the Allied Health Professions Bill, which seeks to regulate occupational therapists, physiotherapists and speech-language therapists
- 7.6 As such, doctors should be allowed to refer patients to the groups above and vice-versa
- 7.7 We wish to highlight that the current wording of the Guidelines means that a doctor (e.g. a radiologist) becomes the principal physician if a patient is referred from a non-doctor (e.g. a TCM practitioner). SMA

finds this situation to be onerous for doctors in two aspects: first, that the scope of this responsibility ("principle physician") exceeds the original intention of the referral (e.g. it might be deemed to include general healthcare beyond the specific diagnosis of a fracture) and the limited duration of the care as originally intended (e.g. for the purposes of diagnosis of a fracture, followed presumably by a hand-back to the referor). The SMA suggests that doctors a) be responsible only for medical care within the scope of the referral unless separately agreed between doctor and patient, and b) be allowed to hand over a patient where applicable (e.g. registered TCM practitioner), and where such handover is not practical for any reason (e.g. the patient's choice) this responsibility be considered completed when the original purpose of the referral (e.g. confirmation of a fracture by x-ray examination) is appropriately concluded (e.g. by issuing the radiological report). We note that some of this is already allowed in the TCM Ethical Code, 4.1.1 (f)

8 4.1.7.3 – Relationship with system of care (page 9)

- 8.1 SMA recommends that the relative efficacy/limitation and cost considerations of applicable treatments should be explained to the patient, including highlighting options not covered by third party payer systems
- 8.2 The duty of care provided by the doctor should be the same regardless of the constraints

9 4.2.1 – Attitude towards patients (page 11)

- 9.1 SMA finds that doctors should be allowed to discharge himself/herself from the future care of a patient in situations where the doctor has reason to believe that abuse by the patient will be repeated

10 4.2.3.1 – Responsibility to maintain medical confidentiality (page 11)

- 10.1 As mentioned earlier, the same standards mentioned in this section should be applicable to both electronic medical records and managed care providers, unless the patient has agreed to a lower standard
- 10.2 The onus will be on the managed care provider to provide documentary proof that the patients has agreed to a lower standard

11 4.2.5.1 – Personal relationships (page 13)

- 11.1 SMA proposes that other inappropriate relationships (e.g. financial) be included in the above section
- 11.2 Sexual relationships should be permitted where this is not inappropriate (e.g. where patient is doctor's spouse)
- 11.3 SMA suggests to change "adulterous relationships" to "improper sexual relationships". Currently worded, a doctor may not have a sexual relationship with a patient's family member only if either doctor or the said person is married ("adultery") but this is allowed if both are currently still single (i.e. not adultery)

12 4.2.6 – Termination of doctor-patient relationship (page 13)

- 12.1 SMA recommends to add a third scenario when termination is by a third-party payer (e.g. when a contract is changed to a new clinic)
- 12.2 The medical records of the patient remain the property of the

original clinic. However, the doctor shall provide to a requesting patient a summary of the care he/she has provided, to facilitate continuing care in the new clinic, and should be entitled to charge the requesting patient for such medical report

13 4.4.2 – Standards required of information (page 15)

13.1 SMA proposes to simplify this section by limiting the qualifications that can be displayed to those in the List of Registrable Basic Medical Qualifications or List of Registrable Postgraduate Medical Qualifications

14 4.4.3.2 – Traditional platforms for listing service information (page 17) and 4.4.5.2 – Guidelines on website content (page 18)

14.1 SMA suggests for MOH/SMC to harmonise the various publicity/advertising laws and guidelines (e.g. PHMC (Publicity) Regulations, related sections in SMC Ethical Guidelines). Where there are contradictions, the stricter requirement should prevail

14.2 New forms of advertising (e.g. Search Engine Marketing) and social media (e.g. Facebook, Twitter) should be accounted for in this section, with the same standards being applied

14.3 Also, SMA recommends that doctors ensure that publicity/advertising conducted overseas conform with that country's laws, regulations, and codes

15 5.4 – Definition of 'Professional Misconduct' (page 25)

15.1 SMA proposes for the definition of 'Professional Misconduct' to be clarified in light of case law (Tan Sek Ho v Singapore Dental Board [1999] 4 SLR 757) and changes to the Medical Registration Act

15.2 In addition, the 'infamous conduct' expression is no longer used in the UK where it first originated, and the Ethical Code should be updated to reflect this change.

General comments

16 Technology

16.1 Telemedicine

16.1.1 Given the current available technology, there should not be an outright ban on telemedicine. Certain branches of medicine, e.g. dermatology and psychiatry are acceptable areas for such use

16.2 Prospective medicine

16.2.1 The same level of confidentiality and privacy standards currently applied for other areas of medicine should be applied in the above area. Information gathered using this method should not be disclosed to third parties without the explicit consent of the patient

17 Commercialisation

17.1 Overcharging

17.1.1 We note MTT's press release dated 7 June 2010 (declining SMA's request to exclude Guideline on Fees from the Competition Act), which highlighted that "...SMC is empowered under the Medical Registration Act (MRA) to act upon complaints received against medical practitioners, which may also include complaints on over-charging that brings disrepute to the profession. The SMC may take disciplinary action against such medical practitioners."

17.1.2 SMA proposes for the Ethical Code and Ethical Guidelines to address the issue of overcharging explicitly

17.1.3 Doctors should be required to provide financial counselling to patients. Charges should be stated upfront to patients

18 Ethical issues

18.1 Organ trading

18.1.1 SMA would like to encourage doctors to exercise a healthy level of scepticism when liaising with prospective organ donors

18.1.2 SMA proposes for the Ethical Code and Ethical Guidelines to highlight that referring prospective donors to the hospital transplant ethics committee does not absolve the doctor from the responsibility to prevent organ trading

18.2 Aesthetic medicine

18.2.1 The relationship between patient and doctor is a unique one in aesthetic medicine, being one that is not curative in nature

18.2.2 SMA proposes for the Ethical Code and Ethical Guidelines to reflect that difference

18.3 Issues relating to statutory examinations

18.3.1 Clinical methods are unable to uncover forensic issues, as clinical methods require patient cooperation

18.3.2 As such, a statutory examination may not constitute a normal patient-doctor relationship

18.4 Managed care

18.4.1 Doctors should not enter into managed care contracts where the terms are worded such that he/she cannot provide adequate care to the patient

18.4.2 Information disclosed to insurance/managed care companies should also be made available to the patient

19 Pre-action advice

19.1 SMA proposes for SMC to set up a committee to review queries from doctors (e.g. a doctor wishes to go into a business venture, but is unsure if it would breach the SMC Ethical Code and Ethical Guidelines)

19.2 Such a vetting process would reduce the number of complaints

20 Complaints and Disciplinary procedure

20.1 SMA notes the recent Medical Registration (Amendment) Regulations 2010 which came into operation on 20 September 2010

20.2 We are concerned that the SMC Disciplinary Committee is now allowed to alter a charge or frame a new charge against the medical practitioner. This is yet another removal of a necessary check and balance in the complaints and disciplinary process. It is unfortunate that this significant change was not debated in public or in Parliament

20.3 SMA is also concerned about the change that allows for a joint inquiry against two or more doctors, even when the complaints are not arising from the same case/patient. First, there are confidentiality issues that may arise during a joint inquiry. Second, each case is unique, and should be treated as such. The desire to reduce the number of backlog cases, though well-intentioned, must not affect the quality of the due process

Separate proposal to SMC (Any Other Business)

1. SMA proposes to run a free orientation for newly registered foreign-trained doctors, to introduce them to the relevant Singapore health laws, regulations, and guidelines (e.g. SMC's Ethical Code and Ethical Guidelines)

2. Managed care companies, which are currently unregulated, should be licensed as establishments under suitable legislation (e.g. Private Hospitals and Medical Clinics Act)

3. The disciplinary inquiries published in SMC's annual reports are a valuable educational resource for doctors to ensure that they do not fall foul of the law. In the same vein, we propose that cases where doctors are found not guilty should also be published