

## Professional Risk Management

# Responding Effectively to a Singapore Medical Council Complaint Letter

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The Singapore Medical Council (SMC) received a total of 152 complaints against 184 doctors in 2010. This was a 58% increase from 96 complaints in 2009. Over the last ten years, the complaints per 1,000 doctors registered increased from 10.7 in 2000 to 16.0 in 2011.

Under the present risk climate, it is therefore important for all doctors as part of professional risk management to acquire the knowledge, skills and strategy in responding effectively to a complaint letter from SMC. The aim of the effective response is to get the matter resolved completely at the Complaints Committee (CC) level and prevent its escalation to a hearing by the Disciplinary Tribunal (DT). Of the inquiries concluded by the SMC DT in 2010, there were *no acquittals* – 50% of the doctors involved received a censure and fine, and the other 50%, a combination of a censure, fine and suspension. Under the amended Medical Registration Act 2010, the fine the DT may impose on a doctor found guilty has been increased from \$10,000 to \$100,000.

### Managing the initial response

It is a common human reaction to experience feelings of denial, anger, fear or even extreme remorse when a highly motivated professional receives a letter of complaint, as he translates this as an indictment of his life of good work. Recognise the *fight, fright, flight* primitive response in all of us when facing an adverse event. These are not effective strategies in risk management and solving the problem at hand.

Manage your anger effectively and do not let it delay replying the letter. Reply only when you have cooled down. Get out of denial and recognise that you have a duty of accountability. Even the best doctors get complaint letters to reply. Remember even saints had stones pelted on them. Procrastination is a bad risk management strategy.

### First steps in an effective response

Most complaints have a root in an angry patient or a family member where the relationship has gone wrong and expectations unmet or ignored.

Manage the angry patient by reading the complaint letter thoroughly and identify the patient's areas of dissatisfaction. Read the complaint letter at least three times and make notes identifying the issues of fact of what actually happened. Collect and collate all medical documents which include all clinical

records, laboratory and pathology reports, consent process and forms, correspondences and notes on telephones conversations. Go through all the documents in a laborious and meticulous manner to construct and draft your reply on a point by point basis. Address all issues and allegations raised by the patient and the specific queries raised by the CC. Collect all documents, even those you may consider of remote relevance, and do not leave any stone unturned. Producing a document at a late stage may work against your defence.

### Engage fully with your lawyer

Contact your medical defence organisation and lawyer as soon as you receive the complaint letter and arrange to meet the lawyer as soon as you have the first draft of the reply. The lawyer will clarify to you the issues that are factual (what actually happened), issues of scientific fact or evidence and the issues that are legal. Engage your lawyer to understand the possible charge, what constitutes professional misconduct and how the law applies in your case. Share everything with your lawyer early and do not withhold information which you may think is irrelevant.

The lawyer will advise you on areas where supporting materials from medical literature is necessary. The lawyer will also help you to construct a proper medico-legal document in defence of your case. Getting training and skills in preparing a medico-legal document is an essential professional competency.

### Getting help from a colleague

The lawyer would want, at this stage, an opinion of another medical professional. Doctors are known to harbour feelings of shame, self doubt, failure and loneliness, which paralyse them from seeking help from a colleague. It is important to consult your trusted friend, mentor and senior colleague with expertise and experience in the area of contention. Choose to consult a colleague who has relevant expertise and a good reputation and standing in the medical community. Exercise professional etiquette by meeting your trusted colleague in person to discuss in detail with him, so he is able to help you arrive at a good judgement of the issues at hand. Email is not an effective method to obtain effective advice.

This colleague could also be a potential expert witness. Be prepared to look for expert witnesses in your specialty or subspecialty within and outside Singapore, who could help in

your reply and possibly become your expert witness. Rely on the assistance of your medical defence organisation in this effort. An accompanying letter from an expert would be useful even at an early stage.

The effective response or reply when supported by a letter of opinion on the case at hand by a colleague of good standing has significant persuasive effect on the deliberations of the CC. The SMC CC and their investigators would invariably obtain such an expert opinion in deciding on the case. The MPS-SMA training course for expert witnesses has provided training in this area to several senior doctors.

### Strategies in drafting an effective response

Be comprehensive in formulating the reply and support what you did by referring to the contemporaneous medical notes and the relevant current medical literature.

Be clear and simple in language. Be accurate and honest by stating what is in the notes. *Do not and do not ever think of altering case notes.* If you are found out, it is not just the complaint that you have to deal with, but an additional charge of fraud, which is a more serious charge.

Check and recheck details for accuracy. Inaccurate statements or facts would put your credibility in a bad light.

Do not blame others for what happened. This is unprofessional.

Do not speculate or make theories of how it may have happened. Stick to scientifically and medically supportable answers. Avoid outdated theories. Explanations offered must be supported by your medical records and medical literature.

There are no limitation periods for SMC complaints. Patients, families and third parties may complain several years after the event. In such cases your memory is bound to be weak in recalling the details of the event. Admit areas of which you do not remember or are uncertain rather than deny that it did not occur. Also admit to issues raised by the complainant for which you do not have records by saying that you did not pay attention to that point at the time of consultation. Do not refute or challenge the complainant unnecessarily and without supporting the facts.

Be professional by being objective and avoiding emotional language. Be focused and stay relevant to the complaints in the letter. Do not take off with your favourite theories on unreasonable patients whom you have seen over the years.

Be consistent in approach throughout the reply, by going for reconciliation. Acknowledge that the patient has gone through difficulties. Empathise with the patient and show that you are aware of his experience by paraphrasing his language. Offer to help to resolve the issues and rebuild relationships. Be humble. Do not boast of your successes nor imply the patient should be grateful to you as any other doctor may have caused greater harm.

Keep the patient's perspective. Do not attack the patient vehemently even if his letter contains false statements. Reply objectively in measured language. Show that after all that has happened, you still have the patient's interests foremost. That is being professional.

### Understand the scope of your risk and defence

The SMC disciplinary process is a quasi-criminal proceeding. There are serious professional and legal repercussions. Get the best legal counsel to defend your case.

All documents provided with your initial response to the CC will surface at the DT or even in a court of law. It is important that the reply to the CC is consistent with your written affidavit and oral testimony; otherwise the DT is known to draw adverse conclusions.

Remember that under the amended Medical Registration Act, the patients and public may complain not only of your professional conduct but on the professional services provided by you, when it is not of the quality which is reasonable to expect of a registered medical practitioner.

Even when the complainant has withdrawn the complaint, SMC may, notwithstanding such withdrawal, refer the complaint to or direct a CC to continue the inquiry, as the case may be. The chairman of the Complaints Panel, CC, DT or Health Committee, as the case may be, shall comply with such direction as if the complaint had been made by SMC.

If the person who has made the complaint or referred any information to SMC is dissatisfied with any order of a CC, he may, appeal to the Minister of Health.

If SMC, which appoints the CC, is dissatisfied with any order of the CC, SMC may appeal to the Minister of Health. When the order of the CC is to refer the matter to the DT, the doctor has little or no course for appeal.

The registered medical practitioner concerned shall not have the right to be heard by the CC, whether in person or by counsel, unless the CC in its absolute discretion otherwise allows. *Your written reply is your only way to put forward your defence.* Good risk management is to get it right the first time with an effective response. **SMA**

### References

1. Singapore Medical Council. Singapore Medical Council Annual Report 2010 [online]. Available at: [http://www.healthprofessionals.gov.sg/content/dam/hprof/smc/docs/annual\\_reports/SMC\\_Annual\\_Report\\_2010\\_\(Final\).pdf](http://www.healthprofessionals.gov.sg/content/dam/hprof/smc/docs/annual_reports/SMC_Annual_Report_2010_(Final).pdf). Accessed on 11 December 2011.
2. Attorney-General's Chambers. Medical Registration Act [online]. Available at: <http://statutes.agc.gov.sg/aol/search/display/view.w3p?page=0;query=DocId%3A7ed19cc9-f4b6-4949-ac89-d3901be12a1f%20Depth%3A0;rec=0;resUrl=http%3A%2F%2Fstatutes.agc.gov.sg%2Fao%2Fbrowse%2FtitleResults.w3p%3Bletter%3DM%3Btype%3DactsAll;whole=yes>. Accessed on 11 December 2011.