

# Report on Q & A Session

## at the SMA Council's Dialogue Session with UMP Members

### Editor's Note:

A Q & A session was held during the SMA Council's Dialogue Session with UMP members. Due to space constraint, we have printed only a selection of the questions raised and the responses. To read about the other issues brought up, UMP members can refer to the minutes of the dialogue session.

### DUE DILIGENCE

One of the questions raised was whether SMA had exercised due diligence in studying UMP as an organisation, its accounts and claims experience, to determine UMP's viability 3 to 4 years down the road.

Associate Professor Goh Lee Gan (Immediate Past President, SMA) said that based on information available in 1999, the SMA Council then, had found it satisfactory to invite UMP to provide a local medical cover for Singapore doctors. Moreover, UMP was already covering 70% of doctors across Australia. A/Prof Goh also clarified that from the events that have recently unfolded, it was not that UMP did not have enough funds to meet its day-to-day operations, but that it did not have enough reserves to meet its IBNR (Incurred But Not Reported) claims.

Mr Lek Siang Pheng (Legal Advisor) added that the present situation of 2 available alternatives, namely MPS and NTUC Income, was similar to that in 1999. The Council was in the same situation. Mr Lek asked if anybody could know what would happen 3 years later. Doctors must recognise they are facing the same situation.

Members accepted that in terms of due diligence, SMA had indeed done its best within the means of the organisation.

### SEEKING LEGAL ACTION IN AUSTRALIA

In response to the possibility of SMA seeking legal action against UMP in Australia, on behalf of Singapore UMP members, Mr Lek explained that in legal terms, SMA is not a creditor. Hence, SMA has no legal standing that would accord it an audience before the Australian court for the liquidation case. Only individual UMP members, who have

suffered a real loss and hence become creditors, have the right of audience before the Australian court.

Mr Lek said that some time later, the Australian court would make a final decision whether UMP could continue. If so, the provisional liquidation process would end and *theoretically*, everything would revert to what it was before 3 May 2002. He added that the Australians seem to be working towards the target date of 31 December 2002.

Presently, the UMP Provisional Liquidator is trying to preserve status quo and will not spend any money or admit any claims. However, people with claims can submit them as proof of debt, and thus be ranked as unsecured creditors. Filed claims will be tallied up as liabilities, and the Provisional Liquidator would then look at the net picture and decide if there are enough funds to make payment. From time to time, the Provisional Liquidator will go to court to submit status reports, and seek permission to do certain things. Mr Lek clarified that filing a proof of debt is not the same as suing UMP.

Mr Lek explained that UMP's provisional liquidation status (and the law, in this respect, would also be the same in Singapore) gave it a certain amount of legal protection during the interim period before the Australian court decides whether to put UMP into permanent liquidation, or to allow some sort of rescue plan.

Hence, before suing, it is necessary to apply to the Australian court for permission to sue UMP for the return of funds that have been contributed by Singapore members. In view of the social and political factors arising from the UMP collapse, Mr Lek's assessment was that the Australian court is unlikely to give permission for a suit and the only practical recourse would be to file a proof of debt and be ranked as an unsecured creditor.

Mr Lek however suggested that since this is a matter of Australian law, members should seek advice from Australian lawyers as to whether they can sue, their chances, and how much it would cost.

### MOVING FORWARD

Professor Low Cheng Hock agreed with Professor K Satku, Master of Academy of Medicine, and Associate Professor Cheong Pak Yean, President of College of Family Physicians, that action has to be taken to move forward. He called for the formation of an ad hoc workgroup on UMP Medical Defence to address the issues discussed. In view of A/Prof Goh's involvement on the SMA AMA-IPI (Avoiding Medical Accidents, Improving Patient Information) Workgroup, which was formed last year, he was asked to head the Ad Hoc UMP Medical Defence Workgroup.

Dr Chong Yeh Woei (Honorary Assistant Treasurer, 43<sup>rd</sup> SMA Council) proposed for members to pool their money to start something. Until then, nothing can be done.

A/Prof Goh called upon members to work together towards a solution. Some of the functions of the Ad Hoc UMP Medical Defence Workgroup would include:

- (i) Look at claims-made insurance further.
- (ii) Look at various instruments to compensate patients.
- (iii) Reduction of risks and how this can be done.
- (iv) Whether to start a class action. SMA would consult legal advice and also keep members informed.
- (v) SMA and Singapore UMP members to register their unhappiness with UMP.
- (vi) Keep surveillance on the medical indemnity market.

On behalf of members present, Dr Chow Kah Kiong (Moderator of the Dialogue Session's Panel), thanked SMA and Prof Low Cheng Hock for positively engaging UMP members in the dialogue session. Dr Chow believed that members now agree that SMA had indeed brought in UMP in good faith. Members should not blame SMA for the unexpected turn of events. He called on all UMP members not to dwell on the past, but to look forward to see what could be done.

Prof Low also thanked Mr Lek Siang Pheng, for his invaluable advice and assistance to the SMA on this issue. ■

### 43<sup>RD</sup> SMA COUNCIL

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