Republic of the Philippines
Department of Finance
Securities and Exchange Commission
SEC Bldg. EDSA, Greenhills, Mandaluyong City

OFFICE OF THE GENERAL COUNSEL

15 December 2008

SEC-OGC Opinion No. 08-28

For: Effect of acquisition of juridical personality by the component societies separate from the national organization

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Sir:

We reply to your query[1] on the application of Section 2 of the Corporation Code of the Philippines to the Philippine Medical Association, Inc. (the "PMA") and its component medical societies.

For easy reference, Section 2 of the Corporation Code is quoted below:

> "**Sec. 2.** ***Corporation defined.*** - A corporation is an artificial being created by operation of law, having the right of succession and the powers, attributes and properties expressly authorized by law or incident to its existence."

Based on the definition of a corporation, it is a juridical person with a separate personality distinct and separate from its members. As an entity distinct from its members or stockholders, a corporation remains unchanged and unaffected in its identity by changes in its individual membership.[2]

PMA is governed by its articles of incorporation, its by-laws and constitution. Structurally speaking, PMA is divided into regions composed of component medical societies which are geographically contiguous. In turn, the component societies are composed of the members of the Association as defined under Article I, Section 1 of the By-laws of PMA.[3]

1 Letters dated 11 November 2008 & 25 September 2008.

2 De Leon, Hector S. The Corporation Code of the Philippines: Annotated citing 1 Fletcher 18-19, p. 19 (2003).

3 "Section 1. Member. - The members of the Association shall be physicians duly licensed to practice medicine in the Philippines, who are members of component medical societies, and whose names have been entered in the roster of members of the Association."

As gathered from your letter, the PMA adopts a policy that once a component society acquires a juridical personality separate and distinct from it (PMA) the latter shall no longer perform its functions as a political instrument of the former.

In relation thereto, you now would like to know whether PMA has the right to disregard or continue to recognize the component societies in relation to PMA.

No less than the 1987 Philippine Constitution guarantees the right of association of every person, thus:

"Article III- Bill of Rights

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Section 8. The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged."

On the other hand, an organization has also the right to define its membership. Stated otherwise, the organization may include or exclude members as defined in its by-laws.

In the case of PMA, part of its organizational structure are the component societies, which must be approved by the House of Delegates. These component societies have general control of the affairs of its members of the profession within its territorial limits.[4] There is no argument that these component societies may register to obtain juridical personality. The issue, however, is whether these SEC-registered component societies may still be considered members of PMA.

The Constitution guarantees the right of association of every person. Corollarily, an organization may set the guidelines for accepting, denying or terminating the affiliation of any of its political instruments such as the component societies. The membership qualifications must be expressly stated in the by-laws and as well as the manner and causes for disqualification, which may also be provided for in the articles of incorporation of the organization.

A careful look at the By-laws of PMA would show that the same does not provide for the manner and grounds for termination of affiliation of component medical societies. Thus, this Office is of the opinion that although PMA may determine whether the SEC-registered component medical societies are still eligible to be considered as its political instruments, the non-recognition or termination of membership of these chartered societies with PMA must be provided for in its by-laws.

Anent your second query, we reiterate that the subject matter is a proper case for a petition to change a corporate name. Any interested party may file the petition with the Commission.

It shall be understood that the foregoing opinion is rendered based solely on the facts and circumstances disclosed and relevant solely to the particular issues raised therein and

4 Section 4, New By-Laws of PMA approved by the Commission on 05 November 1986.

shall not be used in the nature of a standing rule binding upon the Commission in other cases whether of similar or dissimilar circumstances. If, upon investigation, it will be disclosed that the facts relied upon are different, this opinion shall be rendered null and void.

Very truly yours,

VERNETTE G. UMALI-PACO
General Counsel

PMA Inc.odt