

How to Become a Medical Expert

The second MPS-SMA Training Course for Medical Experts was held on 18 and 19 April 2012 at Sheraton Towers Singapore. Course conveners Dr T Thirumoorthy (SMA) and Dr Teoh Ming Keng (Medical Protection Society [MPS]) facilitated the event, and welcomed 70 doctors from general practice and over 25 specialties. The course, supported by the Academy of Medicine, Singapore, aimed to train medical expert witnesses and to familiarise participants with medico-legal issues, Singapore Medical Council (SMC) disciplinary hearings and the Coroner's Court.

SMA President A/Prof Chin Jing Jih opened the two-day event, explaining that with complaints against doctors on the rise, medico-legal experts are required to serve the course of justice. With medical treatments becoming more sophisticated, this has led to greater professional risks and as a result, more medical experts are being sought for their opinions and conclusions to impartially and objectively assist disciplinary tribunals.

Dr Teoh Ming Keng, Head of Medical Services (Asia), MPS, spoke on the role of medical experts. He shared tips on what makes a good expert witness, and how to avoid conflicts of interest, noting that a good medical doctor should be committed, impartial and have intellectual flexibility. It is important to step forward when called, emphasised Dr Teoh. And in helping colleagues within the medical fraternity, he was confident that the experience would help to assist justice, improve one's knowledge, and add variety to one's career.

Mr Lek Siang Pheng and Mr Christopher Chong, both partners at Rodyk & Davidson explained the principles of medical negligence. Mr Lek distinguished between a witness of fact and a medical expert, while Mr Chong elaborated that medical experts were needed to determine the standard of care required, and if it had been met.

Mr Daniel Xu and Dr Albert Myint Soe, senior legal associate and partner at Myint Soe & Selveraj respectively, discussed the aspects of the litigation process in Singapore, and touched on how mediation might be able to complement the process.

Helming the issue of valid consent and failure to warn was Ms Mak Wei Munn, partner at Allen & Gledhill. She noted that such cases have been increasing in recent years and emphasised that it was the doctor's responsibility – not the hospital nor the

nurses – to ensure that the patient under his care is adequately informed on diagnosis and options available.

Dr Janet Page, medico-legal advisor for MPS, touched on practical issues of instructions and writing an expert report. To bring home the point of expert evidence, she emphasised that cases were often won and lost based on these reports, and provided examples of good expert reports.

With that, Dr Thirumoorthy directed course participants to break up into smaller groups to discuss three medical report case studies, analysing the reports on the previously mentioned points of structure, content, language and conflict of interest. Mr Tham Hsu Hsien, partner at Allen & Gledhill, facilitated the lively discussion that ensued.

Dr Joseph Sheares, cardiothoracic surgeon at Mount Elizabeth Hospital and Raffles Hospital, gave an expert's perspective on preparing for court and professional issues. He emphasised that it was important for medical experts to establish evidence in court through oral testimony and documentary evidence and pointed out skills that one should acquire, including being familiar with the elements to prove negligence, and giving a balanced opinion through quoting guidelines and references.

The day closed with a panel discussion fielded by Ms Mak Wei Munn, Dr Janet Page and Dr Joseph Sheares. A participant queried them on the issue of vicarious liability, and to what extent are seniors liable for the errors of their juniors. Mr Tham Hsu Hsien noted that the claim against the doctor would take the slant of insufficient supervision. He pointed out that vicarious liability only takes effect if the doctor himself employed the staff, which is often not the case in a hospital setting. Therefore, seniors would not be held responsible for their juniors, but the duty of supervision and liability from lack of supervision could apply.

On the second day, Dr Janet Page explained the topic of claims handling ethics. She shared how MPS approaches the defence of members, and touched on the personal effects that lawsuits have on doctors. Acknowledging that the legal process is a highly stressful episode, she introduced MPS's global counselling service to provide free support with full confidentiality for doctors involved in claims.

Witness

By Gracia Ong

Mr Matthew Saw, partner at Lee & Lee, spoke on mediation and alternative dispute resolution. He explored the different means of dispute resolution in Singapore, including negotiation and arbitration.

Mr Charles Lin, consultant at Myint Soe & Selvaraj, spoke about SMC and provided a detailed description of the organisation, and what happens during the complaints process.

Mr Eric Tin, partner at Donaldson & Burkinshaw, examined the role of medical experts in criminal courts, coroner's inquests, tribunals and other situations. He recapped the standards expected of a medical expert, and explored the role of experts in situations such as family courts and general personal injury claims.

Mr Stanley Lai, Senior Counsel, Allen & Gledhill, rounded off the session advising on one's appearance in court, what to expect and courtroom skills required. He then provided tips on how to behave in court and also noted that the best experts are those who have put in time and preparation, and are thus the most confident.

A live courtroom situation was enacted on stage by Mr Jason Chan, Ms Jacqueline Chua, Ms Koh En Ying, Mr Ramesh Kumar and Mr Tham Hsu Hsien, who are all from Allen & Gledhill. The session aimed to highlight the principles and tips covered in the lectures, and provided a clearer perspective of a courtroom situation.

The day ended with a panel discussion, and the lawyers present fielded many enthusiastic questions. A participant wanted to know how to handle public comments posted on websites regarding treatments received from doctors. Mr Stanley Lai replied that all websites should have terms of moderation, and it should be possible to write in to the host requesting for the removal of comments. In the instance of websites with no such terms, it would be more difficult, but at the same time becomes an indicator of the quality of the website and readership.

Course participants received a certificate of attendance at the end of the session. Positive feedback was received, and many commented that the session was very useful and provided a greater understanding of the role of medical experts in negligence claims. **SMA**



The training course was well-attended



Ms Mak Wai Munn (standing) facilitating a group discussion



Lawyers from Allen & Gledhill enacting a courtroom scene



Panel discussion featuring Mr Lek Siang Pheng, Mr Christopher Chong, Dr Teoh Ming Keng, Mr Daniel Xu and Dr Albert Myint Soe (L to R)