



My Journey as a Court-Appointed **MEDICAL ASSESSOR**

Text by Dr Winston Woon

As clinicians, we always want to provide the best care for our patients. With the rampant emergence of medico-legal issues in the news and on social media, many of us have started to look a little deeper into this area. I was given the privilege to be a medical assessor (MA) in the Supreme Court in 2016, and I share below what I have learnt from this valuable experience. Do keep in mind that I had no formal training as an MA, although the judge and his clerk (who is also a qualified lawyer) did give me several “dos and don’ts” along the way.

The role of an MA

An MA is not an expert witness, but more of a medical advisor to the judge. The MA is almost like the judge’s walking medical dictionary to explain medical terms (eg, “what

is ascites?”, “what is pleural effusion?”, “what is a gastrojejunostomy?”). Occasionally, the judge might also ask the MA what he/she would have done in certain circumstances. Questions may be asked both in and outside the courtroom. One might think that the MA facilitates and gives the judge a holistic understanding of the case involved.

After reviewing the case notes and laboratory and radiology reports, I had my own opinion on how the case could have been managed. When we review cases retrospectively, I am sure most of us would pick up areas where management could have been improved or where certain interventions could have been done to possibly improve the outcome. However, I believe that as an MA, it was not my role to influence the

case in any manner. Unlike an expert witness, whose role is to give their opinion, an MA’s role is to be neutral and provide the judge with medical facts and possibly the gold standards of medical care.

The importance of early preparation

Months before the court date, I was given a DVD to review. I casually looked through the disc and saw a few folders, and carefully kept the disc in a locked drawer in my office. It was only a few days before the court hearing that I formally looked through the disc. To my surprise, there were thousands of pages of clinical progress notes and laboratory and radiology reports to look through. The disc also included the affidavit of each witness, which again

contained hundreds and thousands of pages to read. The learning point here is to look through the documents way in advance.

The experience

From a social perspective, it was quite an interesting experience – I got to hang out with the judge and his team. Occasionally, we'd go for lunches together and talk about life in general. On the other hand, the defendant and plaintiff lawyers involved were not supposed to interact with me while the case was ongoing.

During the court hearing, I was seated beside the judge on the judges' bench. I saw familiar faces on the floor, and those in front of the bar tried to make eye contact with me and even attempted a smile. I put on a poker face; to reciprocate with a smile might perhaps cause some uneasiness towards the defendant or the plaintiff.

The lawyers from both sides traded information, argued over medical papers and terms, and attempted to

unsettle the witnesses and medical experts. This was a rather exciting learning experience for me. I also realised that the lawyers had to dump in as much (favourable) information as they could for the case so that it could be formally recorded in the transcripts. This is because when either party wants to challenge and appeal against the decision (in the Court of Appeal), they are only permitted to use information that was previously presented and recorded in the courtroom.

Last but not least, the judge told me that the "burden of proof lies with the plaintiff". In other words, if the plaintiff is unable to show proof that the defendant has done anything wrong, the defendant may choose to remain silent in court and still be declared innocent.

In conclusion

Being an MA does take up quite a bit of time, but the experience is invaluable. Currently, I understand that the Singapore Medical Council

has a formal selection process for doctors to be MAs. Every case is different and I am sure that we will all learn something new from the experience. ♦

Dr Woon is a fellow of the Royal Australasian College of Surgeons. He was the head of the hepatopancreaticobiliary surgical unit in Tan Tock Seng Hospital from 2010 to 2018. His main interest is in minimally invasive surgery. Currently, he is in private practice and his main clinics are located in Gleneagles, Mount Elizabeth Novena and Parkway East Hospital.

