

The Bolam Test to be Revisited

The SMA Lecture this year will be delivered by Mr K Shanmugam, Senior Counsel, and Partner of Allen & Gledhill. His lecture topic is “Testing the *Bolam* test: consequences of recent decisions.” Certainly his topic would be of great interest to local medical practitioners.

The *Bolam* test states “The duty is fulfilled if the doctor acts in accordance with the practice rightly accepted as proper by a body of skilled and experienced medical men.” (Source: Lord Donaldson M R in the *Sidaway* case has re-interpreted *Bolam* this way - I All E R 643 [1985]). The House of Lords in *Bolitho v City and Hackney Hospital Authority*

takes the position that at least in theory, the Courts retain the power to establish the standard of care. Their Lordships find it acceptable to challenge medical opinion, but only when the latter has no rational basis. (*Bolitho v City and Hackney Health Authority* [1997] IV All E R 771) Doctors use the *Bolam* test to defend themselves for not disclosing the risk of a failure of a procedure or treatment.

In recent years, the *Bolam* principle has been challenged in the context of disclosure of risk of the failure in a procedure or treatment. In this context, it would be enlightening to hear what Mr Shanmugam has to tell the medical profession. We also look forward to

him advising us what the medical practitioner should do to avoid a charge for negligence for not keeping the patient sufficiently informed about the failures of a procedure or a treatment that he or she is about to undergo.

The practice of *Bolam* medicine is very much related to the risk of a medical negligence claim. It is not a question of just being more careful, but to recognise what is the duty of care, standard of care, and what can be done to ensure these are properly taken care of.

As such, Mr Shanmugam’s lecture is a must for every medical practitioner to attend. We look forward to see you there. ■