

MMA Wants Medical Negligence Reforms, After Multi-Million Ringgit Lawsuit Payouts

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MMA wants reform in managing potential medical negligence – like mandatory mediation – after lawsuits in two obstetrics cases against public hospitals saw RM5 mil to RM8 mil payouts. MMA says this will raise the cost of professional indemnity insurance.



Malaysian Medical Association President Dr Muruga Raj Rajathurai. Picture courtesy of the Malaysian Medical Association.

KUALA LUMPUR, August 1 – The Malaysian Medical Association (MMA) has called for reform in managing potential medical negligence, particularly those in high-risk specialties like obstetrics, neurosurgery, and spine surgery.

The doctors' group cited two recent obstetrics cases of medical negligence involving public hospitals that saw multi-million ringgit payouts last month.

In one of the cases, the High Court awarded more than RM8 million to a mother and her four-year-old daughter who suffered brain damage during the child's birth.

In another case, the High Court awarded over RM5.6 million to a three-year-old girl who was left paralysed from the neck down from spinal cord injuries, due to complications from a C-section operation.

"What we are now seeing is a shift of doctors, especially [those] involved in high-risk specialities such as obstetrics, neurosurgery, spine surgery among others unwilling to be involved in the care of high-risk patients," MMA president Dr Muruga Raj Rajathurai said in a statement yesterday.

"These patients are deprived of care from some of the most senior consultants in the field on the basis of the unwillingness of parties, especially the next-of-kin to accept risks associated with the procedures.

"What happens then is that these patients are most times referred to public hospitals, adding on to the workload of the specialists in public hospitals. Inevitably, there is only so much a consultant can oversee of high-risk cases in the public sector.

"The workload is not only demanding, but it's inevitable that doctors with a wide range of experience and expertise will be involved in the care of the patient. Such is the nature of the workload in public hospitals. At times, mistakes and complications can happen due to the sheer volume of work undertaken."

Although the two medical negligence cases cited involved government hospitals, MMA told *CodeBlue* that the size of damages awarded by the court would be the same, irrespective of whether the defendants are public or private health care providers.

MMA said that lawsuits with high payouts would increase the cost of professional indemnity insurance in the long run.

"The cost of this will no doubt be passed on to the patients, thus leading to upward spiralling of health care cost."

The doctors' group pointed out that Singapore's judiciary recognised this problem back in 2016 and subsequently worked together with the Singapore Medical Council, among other stakeholders, to resolve it.

MMA said that it, together with other professional societies, have also spoken on this issue multiple times to various stakeholders from the executive, legislature, and judiciary in Malaysia.

“Among the reforms proposed include mandatory mediation, where decisions in favour of the injured patients can be made much quicker compared to pursuing a decision via litigation,” Dr Muruga said.

“Another proposal that has been talked about is the concept of no-fault compensation, where the outcome of the settlement is not about blaming any parties, but to look into ways to assist the parties that are injured to some form of normality.

“We also need to identify more doctors with the relevant expertise to come forward to offer expert opinions that will be used to assist the courts. Due to the protracted nature of trials in courts that can potentially take years to come to a decision, many doctors tend to shy away from being involved in offering their expertise.”