

The high cost of malpractice suits

NATION

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PETALING JAYA: Reforms are needed in the handling of medical procedures involving high-risk patients, says the Malaysian Medical Association (MMA), following two recent multimillion-ringgit awards by the courts for medical negligence.

MMA president Dr Muruga Raj Rajathurai said while the court decisions were to be respected, the association was concerned about how litigation is progressing in Malaysia.

He said there has been a “shift” of doctors, especially those involved in high-risk specialties such as obstetrics, neurosurgery and spine surgery, among others, who are now unwilling to be involved in the care of high-risk patients.

As a consequence, 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 the risks associated with such procedures, he said.

“We refer to two High Court judgments that were published in the media recently: one case involving a three-year-old girl who was left paralysed after a caesarean birth, and another case involving a woman and her four-year-old daughter who suffered severe and irreversible brain damage during birth,” he said in a statement yesterday.

On July 5, the three-year-old girl was awarded more than RM5.6mil by the High Court in a medical negligence suit.

The girl, born on May 12, 2020, via caesarean section at a public hospital, suffered spinal cord injuries following complications from the surgery, which left her paralysed from the neck down.

On July 6, the High Court awarded more than RM8mil to a woman and her four-year-old daughter who suffered severe and irreversible brain damage during the child’s birth at a government hospital in March 2019.

Dr Muruga Raj said that high-risk patients are most times referred to public hospitals, adding to the workload of the specialists in these hospitals.

“At times, mistakes and complications can happen due to the sheer volume of work undertaken.

“The million-dollar question is, where do we go from here?”

“Lawsuits with high payouts will lead to a higher 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 an upward spiral of healthcare costs,” he added.

Dr Muruga Raj said Malaysia could draw examples from Singapore, which recognised it as a problem in 2016 and, within a few years, worked together with the Singapore Medical Council and various stakeholders to address this problem head-on.

He added that the MMA, as well as other professional societies, have spoken about this issue multiple times to various stakeholders from the executive, legislative and judiciary components of the government of the day.

Among the reforms proposed were mandatory mediation where decisions in favour of injured patients can be made much more quickly compared with pursuing litigation, he 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 about looking into ways to assist the parties that are injured into some form of normality,” he said.