

Roundtable on New Medical Duty to Inform Law

Date	28 July 2021
Time	2.00pm to 5.15pm
Venue	NUS Law Faculty, Moot Court
Co-chairpersons	Prof Kumar Amirthalingam and Dr Sumytra Menon

In this upcoming invitation-only roundtable, the CENTRES initiative at NUS Centre for Biomedical Ethics, Yong Loo Lin School of Medicine, and the NUS Faculty of Law are collaborating to bring together lawyers, doctors, academics, and healthcare leaders to discuss the new section 37 of the *Civil Law Act* introduced by the *Civil Law Amendment Act*. Section 37 is intended to restate the standard of care test in medical negligence following the Court of Appeal's judgment in *Hii Chii Kok*. The objective of this roundtable is to discuss the issues and uncertainties surrounding the interpretation and practical application of the new law.

This roundtable is organised by CENTRES, NUS Centre for Biomedical Ethics, Yong Loo Lin School of Medicine & NUS Faculty of Law.

Roundtable Topics	Time
<i>Refreshments & Registration</i>	<i>From 1.30</i>
Setting the Scene 1. Why is there a need to shift away from <i>Hii Chii Kok</i> on the duty to inform when this test has been endorsed in every major common law jurisdiction? 2. Background to <i>HCK</i> , <i>CLAA</i> & potential challenges from a legal and medical perspective	2.00 to 2.45
Legal Questions 3. Re s37(2)(a)(i): Who determines what information is reasonably required by the patient? What is the Court's remit to diverge from a peer opinion's assessment of the reasonable patient? 4. Re s37(3): Does the Court have a wider remit to find materiality than reasonableness? Findings of fact under s37(3)(a) are likely to be within the Court's remit, but who determines what "ought to be apparent to the healthcare professional" in s37(3)(b)? 5. How does common law therapeutic privilege fit with the legislative right to non-disclosure? Who is the finder of reasonable justification in s37(2)(b)?	2.45 to 3.45
<i>Break</i>	<i>3.45 to 4.00</i>
Practical Questions 6. Will the legislation impose an onerous burden on the medical profession if an unintended consequence is that patients will now be incentivized/compelled to ask endless specific questions to protect their rights, every one of which the doctors are legally required to answer? 7. Will the legislation impose an onerous burden on the medical profession if other doctors negligently fail to update the patient's record or negligently input wrong information – can the doctor rely on the medical records alone without proper dialogue with the patient, in which case we are back to square one (NB: dialogue is the essence of the <i>Montgomery/Hii Chii Kok</i> test)? 8. Is the healthcare institution or provider of the electronic records system liable for errors, lack of access, or delays in updating the system?	4.00 to 5.00
Wrap up and close	5.00 to 5.15