

# MPS-HKMA Medical Experts Training Course in Hong Kong – 2015 (draft as @14.7.15)

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**Date:** Saturday 29 and Sunday 30 August 2015

**Time:** 13:00 – 18:15 (Saturday); 13:00 – 18:00 (Sunday)

**Venue:** Hong Kong Medical Association (HKMA)  
Duke of Windsor Social Service Building  
15 Hennessy Road  
Wanchai

**Day 1:** Room 201, 2/F  
**Day 2:** Auditorium, 1/F

**CME points:** 3 points for each day

## PROGRAMME

**DAY 1: Saturday 29 August 2015** (Chair: Dr Ming Keng Teoh)

**13:00 – 14:00**      **Registration and Lunch**

**14:00 – 14:15**      **Welcome** Dr Louis Shih, HKMA President

**Opening Address**

**His Honour Judge Dr Harold LEONG**  
**Personal Injury Master of the High Court**

**14:15 – 14:40**      **Role of Medical Experts**  
**Dr Ming Keng TEOH, MPS**

- Why train medical experts?
- Role and duty of an expert
- Code of conduct and regulations for medical experts
- Recent developments and high profile cases
- Professional support and assistance for experts
- Benefits of being a medical expert

**14:40 – 15:20**      **Principles of Medical Negligence**  
**Dr David KAN, Howse Williams Bowers**

- The law and doctors – brief introduction and common legal terms
- Principles of medical negligence - duty of care; breach and causation

- Relevant case law on duty of care, breach and causation
- Civil and criminal cases – standards of proof
- Common legal principles and terms – vicarious liability, without prejudice, res ipsa loquitur, etc
- Bolam and reasonable standard of care
- Damages and compensation – how awards are decided
- Law on consent and failure to warn
- Mental capacity
- Patient confidentiality
- Recent developments in medical negligence case law

15:20 – 15:35

*Tea Break*

15:35 – 16:15

**The Litigation Process in Hong Kong**  
*Jaime LAM, Mayer Brown JSM*

- Why an expert needs to understand the litigation process
- Overview of the **judicial system** in Hong Kong - jurisdiction and general powers of a civil court, criminal court, coroner's court, disciplinary tribunal, and specialist courts
- Overview of the **litigation process** - active case management by the court
- Pre-action investigation and the role played by medical experts
- Pre-action protocol; before legal action can be commenced
- Commencement of legal action - which court; limitation
- Commencement of legal action – writ, pleadings; key milestones
- Compulsory mediation
- Discovery of documents
- Witness statements/Affidavits of evidence-in-chief/Expert reports
- Preparation for trial and the part played by the medical experts
- The judgment; Settlement and awards
- Appeals to the Court of Appeal

16:15 – 16:45

**Appearance in Court – Courtroom Skills and What to Expect**  
*Russell COLEMAN, Senior Counsel*

Appearance in court

- In the courtroom
  - The layout, who's who in court
  - Witness box or live video links
  - Taking an oath
  - Examination in chief
  - Cross examination
  - Re-examination
  - Outcome of trial
- Court etiquette
  - Dress, language, punctuality, courtesy
- Protocol in relation to expert evidence
  - General principles
  - Rules of the High Court

16:45 – 17:05

**Expert Reports – The Brief, Preparation and Legal Considerations**

**Dr Pallavi BRADSHAW, MPS**

- Letter of instructions to experts
- What lawyers need: *opinions on breach, causation, status and prognosis, damages, apportionment*
- How to prepare an Expert Report - Content and format
- Example of a good expert report – *layout and content; clarity, factually accurate, relevant, with references and justification for opinion; timeliness*
- Code of conduct and responsibilities in writing expert reports
- Relevant provisions and rules of court; privilege and disclosure

17:05 – 17:55

**Challenging claims cases – Interactive debate**

**Facilitator: Dr Ming Keng TEOH, MPS**

**Panel: Jaime LAM, Mayer Brown JSM; Tracy CHEUNG, Kennedys; Dr David KAN, Howse Williams Bowers; Antoinette COLTSMANN, MPS**

A presentation of interesting and challenging claims involving complex issues. The panel and audience will engage in debates about the most appropriate balance of ethical, commercial and fair decisions in each of these cases.

17:55 – 18:15

**Questions and answer session  
(All speakers)**

18:15

**End of Day 1**

## **DAY 2: Sunday 30 August 2015** (Chair: Dr Tse Hung Hing)

**13:00 – 14:00**            **Lunch and Refreshments**

**14:00 – 14:30**            **Claims Handling – ethical considerations and difficult decisions**  
**Dr Pallavi BRADSHAW, MPS**

- What happens when a claim is made
- MPS claims management principles and fairness
- Claims management governance
- Ethics and examples of ethical dilemmas in claims
- Doctors' professional interests; safeguards
- Appeals and Judicial Reviews

**14:30 – 15:00**            **A Medical Expert in Medical Council Inquiries, Coroner's Inquests, Criminal Courts, Tribunals and Other Situations**  
**Woody CHANG, Mayer Brown JSM**

- Medical Council of Hong Kong
  - Functions and responsibilities of the Medical Council
  - Organisation set-up of the Council
  - The investigation process for complaints
  - When is expert evidence needed and what is expected
  - Pitfalls and controversies: the legal adviser's criteria for admission of expert evidence
- Coroner's Inquests
  - Objectives of coroner's inquests
  - The rules; cause of death and findings
  - What is expected of an expert
  - Recommendations
- Role of experts in other situations
  - Personal injury claims and employment tribunals
  - Probate cases (mental capacity)
  - Criminal cases

**15:00 – 15:30**            **Mediation and Alternative Dispute Resolution (ADR)**  
**Christine TSANG, Kennedys**

- Types of ADR available in Hong Kong
- Use of mediation and ADR in medical negligence litigation and pre-action protocol
- Hong Kong Mediation Centre - functions
- Mediation in complaint resolution

**15:30 – 15:45**            **Tea Break**

- 15:45 – 16:15**      **An Expert's Perspective: Preparing for Court and Professional Issues**  
*Dr John LOW, Specialist Anaesthesiologist*
- Interpreting lawyers' instructions, complying with expert briefs
  - Preparing an expert report – tips from an expert
  - Providing an objective opinion – difficulties, ethics and the law
  - What puts doctors off agreeing to be instructed as an expert?
  - Before court begins: preparation needed
  - Personal experience as an expert in the courtroom
    - Attending court as a witness – obligations, rights and remuneration, failure or refusal to attend court
    - Level of knowledge, details, clarity, manner, confidence
  - What medical experts want
- 16:15 – 17:15**      **Expert Reports – The Good, The Bad and The Ugly**  
**Facilitator: Oonagh TONER, Howse Williams Bowers**  
**Group Leaders: Woody CHANG & Catherine YEUNG, Mayer Brown JSM; Dr Alison METCALFE & Antoinette COLTSMANN, MPS; Christine TSANG & Andrew LOVELL, Kennedys; Alison SCOTT, Howse Williams Bowers.**
- Breakout groups: critical review of three expert reports
  - Presentation by group spokesman and discussion
- 17:15 – 17:30**      **Quickfire Quiz**  
*Alison SCOTT, Howse Williams Bowers*
- This will challenge the delegates and test their retention and understanding of the material covered by this training programme, as well as the opportunity to win the top prize!
- 17:30 – 17:55**      **Questions & Answer session**  
*(All speakers)*
- 17:55**                **Prize presentation and Closing Remarks**  
*Dr Pallavi BRADSHAW & Dr Ming Keng TEOH, MPS*
- 18:00**                **End of Course** – certificates and feedback forms