

BOA medico-legal roundup

Simon Britten, Chair of the BOA Medico-legal Committee

It has been a busy 12 months for the BOA Medico-legal Committee. A welcome return to face-to-face conferencing saw two very well attended medico-legal sessions at the BOA Congress in Aberdeen.



Simon Britten is a Consultant Trauma & Orthopaedic Surgeon in Leeds specialising in lower limb reconstruction and he is the current Secretary of the British Limb Reconstruction Society. He has been awarded the taught degree of Master of Laws with Distinction in Medical Law and Ethics by De Montfort University Leicester. He is Chair of the BOA Medico-legal Committee and faculty member of the BOA course 'Law for Orthopaedic Surgeons'.

Grey Giddins ran a great session on 'Guilty or not guilty' with cross examination of experts in clinical negligence scenarios by the not to be trifled with Bertie Leigh. The second session looked at some of the practicalities of engaging in medico-legal practice, with valuable talks from orthopaedic experts Charlotte Lewis, Jacqui McMillan, Deborah Eastwood and David Warwick, and from advocate Jan McCall. Jo Round presented on the topical issue of gender balance in medico-legal practice. 8% of BOA home members are women and this gender imbalance is amplified in medico-legal practice, where only 1% of orthopaedic experts listed in UK registers are female. Jo cited lack of exposure to medico-legal work during training, lack of a suitable mentor or role model, and perceived difficulties with work-life balance as dissuading factors for taking on such work.

Gender balance in medico-legal practice was published in the medico-legal section of JTO, along with other articles which considered the coming together of COVID-19, surgical rationing and consent post-Montgomery; an analysis by the MDU of causes of negligence claims, particularly delayed diagnosis, surgical complications and omissions in the consent process; and current medico-legal considerations in the orthopaedic management of Jehovah's Witnesses. These articles are available on the Medico-legal section of the BOA website – www.boa.ac.uk/medico-legal-articles.

Shyam Kumar has worked hard to collate additional medico-legal resources for members on the BOA website, including useful advisory documents from NHS Resolution, the MDU, the Law Society, and the GMC, including their updated guidance on consent. They can be found alongside relevant articles from the JTO and GIRFT – www.boa.ac.uk/medico-legal-resources.

The new BOA educational course 'Law for Orthopaedic Surgeons: Avoiding Jeopardy' is now up and running. Faculty members for the one day course include barristers, coroners, surgeons

qualified and experienced in medical law, and a senior advisor from one of the defence organisations. Topics covered include consent, gross negligence manslaughter, court etiquette, patients who refuse blood transfusion on religious grounds, coroner's law and inquests, clinical negligence, and the pitfalls of social media for doctors.

We aim to run the course every nine months, alternating between online and face-to-face. It is anticipated that an extra topic will be added, covering the work of the regulator via the Medical Practitioners Tribunal Service and GMC. In addition to the course delivery day with case based discussion format, the course also gives access to faculty's online recorded talks as pre-course educational materials. Further details about the course can be found at – www.boa.ac.uk/law-for-orthopaedic-surgeons.

Going forward into 2022 we are preparing for the medico-legal sessions at Congress in Birmingham. We are hoping to cover discussion of the Medco system, set up to facilitate the sourcing of medical report providers for low value personal injury claims in road traffic collisions. We also hope to have an introduction to medico-legal reporting session, and exploration of two different tipping points – when can problematic surgery flip from a civil matter to a criminal matter? And separately, the point at which crown indemnity may be withdrawn in NHS cases. We are also working with the BOA Trauma Committee looking at developing a BOAST guideline on Consent in Trauma.

On behalf of the BOA we would like to thank the outgoing Chair David Warwick, under whose organised and calm leadership the BOA's medico-legal portfolio has flourished; and thanks are also due to Grey Giddins and Simon Gregg-Smith for their sterling contributions. Finally we welcome Caroline Hing, Sameer Singh and Steve Hepple to the Committee and we are very much looking forward to working with them. ■