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Civil Law (Amendment) Bill

Bill No. 33/2020.

Read the first time on 3 September 2020.

A BILL

i n t i t u l e d

An Act to amend the Civil Law Act (Chapter 43 of the 1999 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Civil Law (Amendment) Act 2020 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

New section 37

2. The Civil Law Act is amended by inserting, immediately after section 36, the following section:

“Standard of care for medical advice

37.—(1) A healthcare professional meets the standard of care in relation to the provision of medical advice to a patient if —

(a) subject to subsection (2), the manner in which the healthcare professional acts in the matter (at the time the medical advice is provided) is accepted by a respectable body of medical opinion (called in this section the peer professional opinion) as reasonable professional practice in the circumstances; and

(b) the peer professional opinion is logical.

(2) In order for the peer professional opinion mentioned in subsection (1) to be relied on for the purposes of that subsection, the peer professional opinion must —

(a) require the healthcare professional to have given (or caused to be given) to the patient —

(i) information that a person in the same circumstances as the patient (which circumstances the healthcare professional knows or ought reasonably to know) would reasonably require to make an informed decision about whether to undergo a treatment or follow a medical advice; and

(ii) information that the healthcare professional knows or ought reasonably to know (in accordance with subsection (3)) is material to the patient for the purpose of making an

informed decision about whether to undergo the treatment or follow the medical advice; and

Explanation. — Sub-paragraph (ii) refers to information which a person in the same circumstances as the patient would not reasonably require to make an informed decision (about whether to undergo a treatment or follow a medical advice), but which is important to the patient, for the patient's own reason (including an idiosyncratic reason), for the purpose of making an informed decision.

- (b) support the non-provision of any information mentioned in paragraph (a)(i) or (ii) to the patient only where there is reasonable justification for that.

Illustrations

(a) *A* (a doctor) decides to perform an emergency life-saving surgery on *B* (a patient), who is unconscious, to create a temporary airway for *B*. Without this surgery, *B* will not be able to breathe and will die. At the material time, there is no person present with legal capacity to make medical decisions on behalf of *B*, and insufficient time to locate or appoint such a person. *A* has reasonable justification for not providing information about the surgery to *B*, or any person with legal capacity to make medical decisions on behalf of *B*, before performing the surgery.

(b) *B* (a patient) seeks treatment for breast cancer from *A* (a doctor) and informs *A* that *B* would like to proceed with a lumpectomy. *B* also informs that *B* had earlier consulted 2 other breast cancer specialists who had advised *B* of the other treatment options (including their benefits and risks) available to *B*, and expressly tells *A* that *B* does not want to be given this information again. *A* is satisfied that *B* appreciates the seriousness of *B*'s decision to waive *B*'s right to hear such information. *A* has reasonable justification for not providing such information to *B*.

(c) *A* (a doctor) is of the view that it is in the best interests of *B* (a patient) to undergo a procedure and that informing *B* about the risks of the procedure would dissuade *B* from undergoing it. This, by itself, does not give *A* reasonable justification for not informing *B* about the risks.

- (3) In subsection (2)(a)(ii), an assessment as to whether any information is material to the patient for the purpose of making an informed decision about whether to undergo a treatment or follow a medical advice must be based on any specific concern