

# Public liability: medical practitioners

This subject is topical. There is increasing momentum from governments and certain areas of the private sector to reduce the medical public liability cost, largely at the behest of insurance companies who cover this type of liability and of course the medical profession.

At the initiative of the Central Australian Division of Primary Health Care and Dr Richard Lim MLA, John Stirk arranged and co-ordinated a "medico-legal dinner", which took place on Friday 4 October at the Convention Centre in Alice Springs.

By the way, the Convention Centre is a terrific venue and could be perhaps used more by the legal profession.

Officially, there were 21 attendees at the dinner of including one Judge (Justice Riley), eight lawyers, one medical practitioner doubling as a senior claims management officer from UMP, and various medical specialist practitioners.

After everyone introduced themselves, Justice Riley gave a short paper on the proposed *Personal Injuries (Liability and Damages) Bill*.

We had some dinner and libation too.

Then general discussion ensued with the most striking features being:

- Lawyers encourage claims with little or no merit - no win no pay!
- Premiums for specialists are quite high. What we don't know is their income!
- The capping of claims and a threshold to qualify.
- The medical profession had, to a certain degree, been a contributor to the rising premiums because of its tendency to "close ranks" in relation to matters of negligence.
- The tort system should be abolished in favour of a system akin to the New Zealand system. Strewth!
- The Health and Community Services Complaints Commission was working as a satisfactory alternative here in the NT. Go the NT!

Having been, at one stage in my University career, a student socialist (we all know we don't mean it), the proposition of a national medical liability scheme does have some appeal.

However, isn't that what we have at the moment as far as the Medicare scheme is concerned? It's going really well, isn't it?

The proposition that even where a medical professional has been grossly negligent, there is no fault and the patient "joins the queue" is however somewhat mind blowing for a lawyer.

How about no fault for the legal profession?

The problem with a national scheme is that it is generally the country areas that are less funded and therefore have fewer facilities.

The person who becomes a paraplegic should, on the national model, be entitled to the same no fault treatment as a city counterpart.

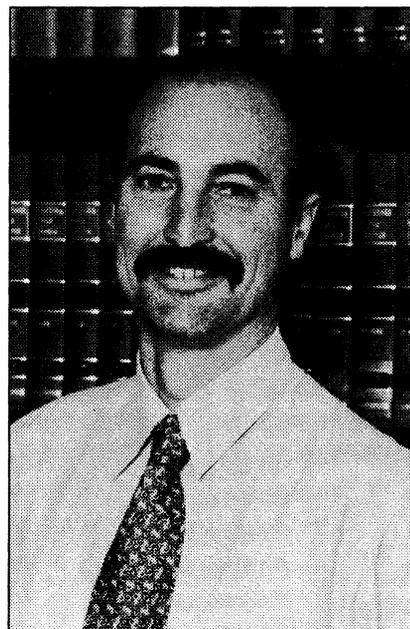
However, facilities in the country are nowhere near as prolific or of the same high standard as in the city.

That is not to say that health carers in the country are not up to standard, they are. It is simply a fact of life that they don't have the same funding, infrastructure and facilities.

Therefore, under the national model, a country person would be significantly disadvantaged. For example, there is no hydrotherapy pool in Alice Springs (it hardly ever rains).

Having a free ticket to hydrotherapy for the rest of ones life is therefore of no value here, unless of course it is transferable!

If there were a move to a national no fault model, then there would have to



Tony Whitelum, Alice Springs LSNT representative

be very stringent auditing of the performance of all medical health professionals.

First of all a due diligence audit.

What a task it would be to audit and monitor the performance of each and every such professional.

If there were no reporting of an "adverse incident", then the audit system would have to locate it and then appropriately discipline the practitioner who failed to inform.

Fines would have to be imposed on offending practitioners, particularly repeat offenders and those failing to report.

The cost would be enormous. Another buracracy to maintain! Would it be as much as the tort system costs?

Congratulations to the Alice Springs practitioners who attended the dinner.

A free exchange of ideas at such functions can only be beneficial to everyone. Indeed it allowed the most important and difficult conundrum of the night to be solved. It was unanimous, Barry Robran is the best footballer ever!

Best Players

Us: Roger Bennett (BOG)

Them: Gavin Wheaton ①