

Australian Council for Immunisation Information assists vaccine injured to obtain compensation

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Solicitors around Australia will benefit from the referrals and expertise of the Australian Council for Immunisation Information Inc (ACII). This non-profit nationally registered Association and charity was formed in 1994 to disseminate vaccination information, both legal and medical, to consumers. As the Association has evolved over the past three years, we have seen a most important role emerge, i.e. the commitment of ACII to ensure vaccine damaged consumers have access to legal advice particularly in the field of medical negligence and the provision of medical and legal information to solicitors to support any proposed claim. Apart from civil claims, solicitors acting in family law matters are already using information supplied to their clients by ACII. It is not unusual in these matters for dissenting separated parents to use the subject of vaccination as a contentious issue.

Maureen Hickman, paralegal and President of ACII, is one of three law personnel who have investigated and subsequently obtained from eminent overseas specialists, sufficient medical evidence to commence vaccine damage claims as a result of Diphtheria, Pertussis, Tetanus vaccine (DPT) in Australia. Two of these claims have been on foot since approximately 1992, one in NSW and one in Victoria. The third case, which is legally aided, will be heard in the Queensland Supreme Court possibly during 1998.

In the United States, due to the mandatory childhood vaccination policy in that country, the *National Childhood Vaccine Injury Act, 1986* was passed and the National Vaccine Injury Compensation Program (VICP) was established in 1988. It is a no-fault alternative to the tort system designed to compensate individuals injured by childhood vaccines. An individual claiming injury or death from a vaccine files a

petition for compensation with the Court. The government initially funded this program with approximately \$110 million a year but it is now funded by surcharges on each dose of vaccine – \$3.50 for Diphtheria, Pertussis, Tetanus (DPT), \$2.50 on Measles, Mumps, Rubella (MMR), and 25 cents on Polio. About \$522 million (72 percent for DPT injuries) has been paid out from the fund since inception. However, lawyers have recently filed a petition in the US Court of Appeals criticising that government's new moves to limit help through this scheme for children injured by severe reactions to vaccines.

As the Australian Government increases its push for mass vaccination of our children, thereby closely aligning this Government's vaccination policies to the American system, more and more vaccine injured will seek redress through the judicial system in this country. Already significant compensation has been awarded in the workers' compensation court in Sydney to an applicant for injuries and disabilities sustained as a result of a Hepatitis 'B' vaccine (see case notes on page 9) and documents have recently been filed in the Sydney Supreme Court on behalf of a 13 year old boy. This boy suffers severe arthritis as a result of a routine Measles, Mumps, Rubella (MMR) vaccine given at his local high school under the supervision of the local municipal council.

Local municipal councils and state education departments may well find themselves embroiled in many such cases if Dr. Michael Wooldridge emulates the UK mass MMR vaccination campaign held in 1994. An epidemic of measles which was predicted in the UK failed to eventuate, nevertheless, Dr. Wooldridge is predicting a similar occurrence in Australia in 1999 and is already planning a similar cam-

paign. Thousands of children fell ill in the UK following this campaign and two law firms have been given legal aid to act on behalf of hundreds who have sustained permanent injuries and disabilities.

One such UK law firm¹ has publicly stated –

- a) We have gone into the matter in some considerable detail because we feel that it is time to make it clear that vaccine damage is not some capricious concept, but is very real, and is demonstrable using scientific principles.
- b) We have listened too often to the dismissive comments from representatives of the government and some members of the medical profession.
- c) We are also concerned that risks associated with the actual illnesses may have been exaggerated, perhaps to frighten people into having their children vaccinated.
- d) We are now worried that the safety information about these vaccines may not be entirely accurate.

This firm has recently engaged the full-time services of a science graduate as a medico/scientific investigator, to peruse and sort the hundreds of medical and scientific articles (both for and against their case). A leading QC has been briefed with nearly two hundred typewritten pages and more than five hundred medical and scientific articles. This firm has indicated that preliminary indications from counsel are that he thinks that the cases are strong.

The following law issues are of concern to ACII:–

- 1) Dr. Aileen Plant, Senior Lecturer at the University of WA's Public Health is calling for no-fault compensation to be introduced. She says no-fault compensation would protect GP's from having to bear doubts about the safety of immunising.

- 2) The 'push' by some medical defence organisations and colleges to require plaintiffs to obtain medical reports from an appointed panel. What if expert medico/legal reports are required from overseas as is usually the case in vaccine damage claims?
- 3) Lack of disclosure of 'material' risks by medical personnel on the administration of vaccines denying the right of an individual to give 'informed' consent.
- 4) Discrimination against entry of unvaccinated children to child day care centres and pre-schools in some states of Australia.
- 5) Erosion of the right of 'well' and 'healthy' individuals to choose whether they wish to undergo any preventative medical treatment (vaccination) at all under any circumstances.
- 6) Government who places a higher value on the life and health of a

child who suffers from a childhood infectious disease than the life and health of a child who suffers from a vaccine reaction by the fact, firstly, of their failure to fully recognise that these serious adverse reaction events take place to any significant degree and secondly of their failure to endorse mandatory reporting of these adverse reaction events by medical personnel.

- 7) The intending introduction of Federal laws restricting the right of parents to claim full social security benefits unless they give consent to undergo alleged preventative medical treatment (vaccination) for their children.

ACII will continue to support and provide information for vaccine injured plaintiffs and in other law matters.

To address the above mentioned issues, however, this Association re-

quires assistance by lawyers to preserve an individual's basic human right to undergo or forego alleged preventative medical treatment (vaccination) despite the growing push by government to dismantle that right. *'A particularly pernicious myth is the one that depends on the view that ends justify means. Sometimes such a view is rationalized as having produced the most good for the most people. This is blatant statism.'*²

¹ Dawbarns, Solicitors, Bank House, King's Staithe Square, King's Lynn, Norfolk PE20 1RD.

² Henry K. Beecher, M.D Boston – Jama Jan.3.1996 Vol. 195, No.1.

For further information on vaccination please contact Maureen Hickman, President of ACII at Carters Law Firm, Sydney. Tel: (02) 9662-8188 Fax: (02) 9662-8138 or Tel: (043) 425-294 Fax: (043) 425-379

ACTA conference addresses causes of human toxic chemical exposure

Peter Harding, ACTA President

Since 1993, the Australian Chemical Trauma Alliance (ACTA) has organised conferences dealing with the medical, legal, social and genetic effects of human toxic chemical exposure. ACTA supporters have suggested that the next conference should attempt to address the causes, including issues connected to and resulting from environmental contamination.

Many things associated with modern times have, through their negative aspects, an adverse impact on human health and well being. A wide range of products and activities are now considered essential to daily life and the economy of nations. However, accepting the convenience and wealth they offer is not without its cost. This is a situation which is becoming increasingly apparent with the worsening degradation and contamination of the environment, and the consequent ill effects suffered by a growing number of people.

Blackmores Ltd and ACTA wish to highlight these problems and suggest solutions. On 8 to 10 August 1997 they will do just that, with a "one of a kind" conference on the impact of a modern environment on humans. This meeting will concern itself with providing an overview of the global situation in this regard, and the keynote in-

troductory talk will be delivered by an eminent environmentalist, Dr Rosalie Bertell, President, International Institute of Concern for Public Health and Editor in Chief, International Perspectives in Public Health (IICPH). Dr Bertell also Directed the International Medical Commission – Bhopal, which investigated the aftermath of the Union Carbide disaster in Bhopal, and of the International Medical Commission - Chernobyl, which convened that Tribunal on violations of the human rights of victims in Vienna, April 1996.

Dr Bertell's address will be supported by contributions from experts in various environmental specialities. The discussions and workshops that will follow during the conference will result in a series of resolutions which, having been ratified by the main assembly, will be presented to governments and NGOs as a list of recommendations.

APLA member, Chris Phillips, Solicitor, who specialises in chemical poisoning, is also presenting a paper at the conference on the "Ecological Challenge: Strategies for the New Millennium".

For more information on the conference, contact ACTA on telephone/fax (067) 25 5521. Peter Harding is the President/National Co-ordinator of ACTA.