



ACTIVATE

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Moves in Medical Negligence Law: an update

There have been some developments in the area of medical negligence law at both a state and national level.

Health Care Liability Bill 2001 (NSW)

The NSW Government signalled its intention to introduce the *Health Care Liability Bill 2001* into the Legislative Assembly on Tuesday 29 May, but the Bill was not introduced in that session. APLA has arranged to meet with the cross benches and with key members of the Opposition on the days immediately following the Bill's introduction. While it is apparent that there is not much that can be gained from attempting to talk with parliamentarians about the legislation before they have had an opportunity to view and consider the Bill (which has not been released in its final form), we need to be in a position to lobby them at the first available opportunity. These meetings will be the second round of briefings that APLA has had with key politicians about the Bill.

APLA has also prepared two documents which will assist in our lobbying

efforts: a position paper which deals with APLA's concerns about the Bill, and a document which outlines APLA's proposals for alternative ways of reducing medical indemnity premiums and the attendant 'crisis' without taking away the rights of injured plaintiffs.

Other States

To date there have been no moves by any other State/Territory to implement NSW-style changes to medical negligence laws. APLA has however prepared a briefing paper for the APLA State/Territory branches which provides information about what has happened in NSW to date, and which will hopefully assist others to deal proactively with this issue should this become necessary. Copies of the briefing paper can be obtained from the APLA office or from the branch presidents in each state/territory.

Federal developments

The following "joint communiqué" was released by the Australian Health Ministers' Conference on 23 March 2001:

National efforts to resolve medical indemnity issues

A Commonwealth/State Working Party and a broader consultative forum will address the complex issues surrounding medical indemnity and health care litigation, Australian Health Ministers announced today.

Meeting in Sydney, Australian Health Ministers agreed the increasing costs of medical indemnity and issues concerning health care litigation were of national concern and that proposed solutions would need to be nationally consistent and developed in co-operation with all relevant sectors.

Chair of the Australian Health Ministers' Conference South Australian Health Minister, Dean Brown said medical indemnity issues were having a negative impact on the health system and on patients.

"The Commonwealth and State Governments are all concerned about the costs of medical indemnity coverage," Mr Brown said.

"No one is happy with current arrangements. Patients wait far too long to receive compensation, doctors indemnity premiums continue to rise, as do hospital premiums. This in turn diverts

money from health services."

"Health Ministers have agreed to take a collaborative approach to examining medical indemnity costs and other issues concerning health care litigation and patient safety."

"We need to find a long term solution that protects the interests of patients and has broad support."

The Ministers supported the establishment of a Jurisdictional Medical Indemnity Working Party with membership from the Health Departments of the Commonwealth, States and Territories. The Working Party will:

- develop options to provide sustainable solutions to address long term care costs in health care litigation;
- develop draft medical indemnity industry standards;
- look at ways of reducing the administrative and legal costs associated with health care litigation; and
- develop a model for the collection of national data on health care negligence cases.

The Working Party will focus on practical solutions that will minimise the human and financial costs associated with health care litigation and provide greater security for consumers and providers. It aims to report back to Australian Health Ministers in July 2001.

The Ministers also agreed to the establishment of a Medical Indemnity Consultative Forum with membership from Government, the medical profession, the community and others with specialist skills in indemnity-related arrangements. The Consultative Forum will advise the Working Party and will also work with it to consult more broadly with health care consumers, health care professionals, the medical defence and insurance industries, the legal profession, health data organisations and other interested government agencies.

APLA requested representation on the consultative forum but was advised that the committee was very limited in membership. We have been assured, however, that APLA will be one of the organisations to be consulted when the committee has something substantive to discuss. In the meantime we are attempting to obtain as much information as we can about what is being proposed. **PL**



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