



## Message from the

# Editor

Welcome to the Spring edition of the Legal Check-up - our way of keeping in contact with the health practitioners who assist our clients and updating you on the latest health and legal issues.

Your injured patient is our biggest priority. We are passionate about providing your patient with a personalised service, helping them to access the rights and entitlements they need to get their lives back on track.

Another passion of ours is giving back to the community, and our feature article this quarter provides an overview of some of the important work we do pro bono.

We also turn our minds to the festive season this edition and consider Christmas mishaps, office parties and an unenviable job of a practice manager.

Our lawyers are spending more and more time on the peninsula and for some of us it is an opportunity to give back to the community where we grew up. We look forward to spending more time in the area as client numbers continue to grow.

If you require further information about any of the topics discussed in this edition of the Legal Check-up, contact us on (03) 9321 9988.

**Bree Knoester, Partner**

## Justice for all

**Adviceline Injury Lawyers is committed to achieving better outcomes for our most disadvantaged and vulnerable community members**

### Free legal advice

For more than 40 years we have provided pro bono legal advice and representation for disadvantaged individuals and groups as well as charitable and not for profit organisations.

Most recently, our attentions have been focused on refugees requiring urgent medical treatment in Australia and women experiencing domestic violence.

### Getting kids off Nauru

Over the past two months Adviceline has sought four urgent injunctions in the Federal Court to have seven children, aged as young as two years, and their families evacuated from Nauru.

Documents lodged with the Court stated that children had stopped eating, were drinking very small amounts of fluid and had made attempts to end their own lives.

All of the children and family members assisted have previously been found to be refugees under the Refugee Convention. Prior to arriving on Nauru the families had witnessed deaths, sexual violence and persecution in their home countries.

We are pleased to have helped these children receive the lifesaving medical care they need, however, a long-term solution needs to be put in place to remove the children still remaining on Nauru.

### Ending violence against women

Many Australian women and children experience violence every day, with at least one woman killed a week by a partner or former partner.

Our lawyers regularly assist victims of domestic violence at the Melbourne Magistrates Court and work with Victorian Women's Legal Service to address the legal concerns that can arise from relationship breakdown or violence.

### Running for a cause

As medical professionals well know, helping people achieve better health outcomes can be stressful.

Work/life balance is essential to our success, so to alleviate our stressors we enjoy getting behind a cause and entering an event.

Most recently we took part in Run Melbourne and raised funds for Cure Brain Cancer Foundation; and joined the Great Strides event for Cystic Fibrosis.

**Bree Knoester, Partner**



The ALL team take part in Great Strides on Sunday 28 October 2018 at the Botanical Gardens.

# Wish List



## Avoid a Christmas like the Griswolds

**The silly season is almost upon us! We will celebrate with BBQ and beers; watch Home Alone, the Grinch and National Lampoon's Christmas Vacation; visit the Myer Christmas windows and listen to "All I Want for Christmas" by Mariah Carey (on repeat, naturally).**

**While this is a time for family, friends, fun and good food, it is also a time when holiday mishaps occur.**

### What you don't want for Christmas

Every year there are countless stories across the world of people ending up in hospital because of a seasonal injury. Here is a selection:

- A 36 year old man was putting up Christmas decorations when he looked up and sneezed, accidentally swallowing a drawing pin.
- A 4 year old girl was found with a metal bell in her ear. She told the medic that she wanted to "hear jingle bells".
- A 32 year old male danced too vigorously at a Christmas party, twisting and spraining his ankle.
- A 65 year old woman was attacked by insects that emerged from her synthetic tree when she took it out of the box.

While these injuries seem bizarre, studies do show that personal injuries are more likely during the holiday period than any other time of year.

In Australia last year, five people were injured because of a remote control car. Many injure their backs, knees and shoulders from backyard cricket – either from a winning spin bowl or playing too many overs on Christmas Day. A number of Australians were also admitted to hospital with injuries sustained due to jet skis and boat propellers.

### The office Christmas party

The lead-up to the Christmas break is often the most challenging period of the year, and with the pressure to meet tight deadlines and complete projects, injuries at work can occur.

When the work is finally done, the opportunity to blow off steam at the work Christmas party is tempting – but employees be warned – work parties are a haven for potential injuries.

If an injury occurs at a work event, whether at the work premises, an external venue, or on the way to/from the venue, employees may have a right to bring a claim for their injury because it happened 'in the course of employment'.

However, if they continue to celebrate after the employer sponsored event officially concludes or if they are engaging in unsafe behaviour, then the employee may not be covered.

Injuries that are covered can be physical and/ or psychological, and benefits are claimed through the employer's insurer, WorkCover.

If you have a patient who has been injured at work or 'in the course of employment', it is important they lodge a WorkCover claim as soon possible. We do not need to show that anyone is at fault for the injury to claim entitlements.

# Won't someone please think of the Practice Manager!



## Practice Managers are tasked with the unenviable job of attempting to navigate the legal minefields scattered throughout the festive season, without being branded the office Fun Police

With employers being slapped with increased penalties for bullying and sexual harassment behaviour by staff, it is more important than ever to ensure Practice Managers understand their responsibilities at end of year celebrations.

Any event can become fraught with danger when alcohol is consumed. At a work-related function employers have a duty to serve alcohol responsibly, and to take all reasonable steps to guard against risk.

If an employee is injured or harmed because of intoxication at a work event, the employer can be held liable if it induced or encouraged the excessive consumption of alcohol, and may end up on the receiving end of a workers' compensation or other claim.

Employers who terminate an inebriated employee behaving badly at a work function should be aware that the Fair Work Commission will apply different rules to the circumstance when determining if this dismissal was unfair.

Importantly for employers, their responsibility does not necessarily end once the drinks stop flowing and the lights go up. Employers may be liable for the unlawful actions of their employees outside of work hours, where the misconduct is connected to their employment.

Unless you plan on hosting 2018's most boring office Christmas party, it is not possible to eliminate all risks associated with the festive season.

However, there are some important steps employers should take to manage those risks, including:

- have clear, legally compliant workplace policies in place in relation to bullying, sexual harassment and the consumption of alcohol, and ensure employees are familiar with those policies;
- take the opportunity to remind employees at the start of the festive season of the standards of behaviour expected of them when attending work-related functions;
- serve alcohol responsibly (in particular avoid the "help yourself" method of service), provide plenty of food and water and ensure that inebriated employees are promptly cut off from the bar;
- provide for clear 'start' and 'finish' times for work-related festivities;
- provide safe means of transport home from work-related functions, especially in the case of employees who are intoxicated or otherwise vulnerable.

Finally, if all else fails, retreat to a corner with a glass of wine and remind yourself that the office Christmas party only happens once a year.

**Ben Marshall**, Partner & **Hannah Dunai**, Associate;  
Workplace Health & Safety division

### 1. What do I need to write on WorkCover certificates?

Certificates of Capacity are used by WorkCover Insurers and employers to determine a worker's capacity for work and the nature of their injury. The certificate should record the patient's work-related injury and provide a medical opinion on the worker's current capacity and limitations based on the work-related injury, for example, no lifting above 5kgs.

### 2. What if I have never seen the patient before and they want me to record an old work injury?

Workers often do not report injuries immediately. This can be for many reasons. Sometimes they do not believe the injury is initially serious but may report it after symptoms do not resolve. You can still record the history they give you in your records, even if it is some time after the injury occurred.



**Doctor  
Q&A**

# Our news



## Familiar faces on the peninsula

### Adviceline Injury Lawyers hosted local peninsula doctors on Wednesday 31 October at a CPD event in Frankston

Partner Michael Lombard and Senior Associate Tina Toutzaris-Sabo presented on the TAC and WorkCover compensation systems, with an emphasis on the rights and entitlements of patients.

Attendees were provided with practical tips for responding to report requests, documenting TAC and or/ work-related injuries in clinical records, and advised on what to do if you are required to give evidence in Court.



Above: Lawyer, Kirsty Osborne; Hearing Loss Administrator, Lachlan Hicks; and Lawyer, Grace Bowran-Burge at the Main Street Mornington Festival.

Left: Lawyer Kirsty Osborne looking very pleased to be back home in Mornington!

### Mornington Festival

Adviceline Injury Lawyers proudly hosted a free information marquee at the Main Street Mornington Festival on Sunday 21st October 2018.

In it's 23rd year, the festival was a fantastic showcase of everything the Mornington Peninsula has to offer - seasonal produce, delicious food, some of Australia's best wine, and expert lawyers (with water for those drinking some of Australia's best wine!).

With an increasing amount of our clients located in the peninsula, we were excited spend quality time with our local community members.

## Free legal in-service: We'll even bring lunch!

Based locally to you, a team of experts from Adviceline Injury Lawyers can attend your clinic to provide a **free information session** on entitlements under the main compensation schemes.

They are also available to answer any questions that you or your team may have.

The information presented is up to you! Let us know what you would like to hear about, and we can tailor a session that will meet the specific needs of your clinic.

To schedule your free information session, please contact Niki Patterson on (03) 9321 9925 or email [niki.patterson@alil.com.au](mailto:niki.patterson@alil.com.au).

**Remember, you can access free legal assistance at any time during business hours on our Adviceline - (03) 9321 9988.**

When you call, you will speak directly to a lawyer - not a secretary or call centre.

CONTACT US

T (03) 9321 9988 | E [advice@alil.com.au](mailto:advice@alil.com.au)

LOCATIONS

EPPING | MELBOURNE | MELTON | MOE | SPRINGVALE | WANGARATTA