

**Summary of the
Oxford Dialogue on the Law & Health Policy**

held in Melbourne, Australia

June 21, 2007

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Topic:

The law and health in relation to the workplace and the physical environment

Participants

Justice Terry Sheahan
(Chair and Co-convenor)
President
NSW Worker's Compensation Commission

Mr Terry A'Hearn
Director, Sustainable Development
EPA Victoria

Dr Bert Boffa
Medical Adviser
BUPA Australia Health

Judge John Bowman
Acting President, Victorian Civil and
Administrative Tribunal (VCAT)

Ms Rachel Carlisle
Physical Activity Manager
National Heart Foundation, Victorian
Division

Mr Greg Johnson
Chief Executive Officer
Diabetes Australia VIC

Ms Sarah Mackay
Legal Policy Adviser - Obesity Policy
Coalition, The Cancer Council Victoria,
Diabetes Australia – Victoria, Deakin
University

Dr Maurice Wallin
Occupational Physician and Lawyer
Academic Vice-President & Censor-in-Chief
Australian College of Legal Medicine

Dr Carolyn Whitzman
Senior Lecturer, Urban Planning
University of Melbourne

Mr Stuart Worn
Executive Officer
Planning Institute of Australia (Vic)

In attendance

A/Professor Ruth Colagiuri (Co-convenor)
Director, The Diabetes Unit
Australian Health Policy Institute
The University of Sydney

Apologies

Michael Ackland, Marion Dunlop, Earl Eddings, Janet Hiller, Jonathan Liberman, Bebe Loff,
Rob Moodie, Chris Reynolds, Jeff Kennett, Lyn Roberts, Patricia Faulkner, Boyd Swinburn

A Law + Health Working Group was initiated by the Oxford Health Alliance Asia Pacific arm* in early 2007 to begin a process of exploring the untapped potential of the law and health policy to interact to moderate determinants and vectors of chronic diseases which may be generated or exacerbated by workplace conditions or the broader physical environment. An initial Law + Health Dialogue was held in Sydney in February 2007 and since then the Law + Health has been approved by the Oxford Health Alliance (international) Board as a formal work stream to augment and underpin the existing work streams of the of the Alliance which centre on:

- The economic argument for preventing chronic diseases
- Urban design
- Industry/business/workplace health
- Youth

Oxford Health Alliance Global Summit

With the year 2007 marking the first time in human history when more people will live in cities than not, healthy urbanisation has been chosen as the central focus of the next Oxford Health Alliance Global Summit which will be held in Sydney in early 2008, with the other work streams exploring their areas through the prism of urban design and related issues. The Summit's primary objective will be to set health goals to optimise the opportunities arising from the present increase in economic wealth and minimise the unwanted and unintended consequences of this greater affluence. The Summit will bring together influencers from public and private health, legal, business, building and transport sectors together with governments, employee unions, academics, researchers, activists and non-government organisations to construct a plan - and build a 'coalition of the committed' around the plan - for re-engineering the policies and practices that currently constrain efforts to reduce the burden of chronic diseases in Australia and internationally.

Purpose of the Law + Health Dialogues

As a tool for ameliorating social determinants of chronic diseases, the law will be pivotal to this process. Consequently, in late 2006, Justice Terry Sheahan was persuaded to identify and lead a small group of people with particular expertise in law, workplace health, and urban design with a view to developing an issues paper to feed into the Alliance's 2008 Summit. The Law + Health Dialogues are co-convened by Justice Sheahan and Associate Professor Ruth Colagiuri to commence a journey exploring ways in which the law might be used to modify and ameliorate a range of workplace and environmentally determined behaviours and health risks. The short term aim is to develop a discussion paper to feed into the 2008 Summit. The Dialogues are convened in full consciousness of the emerging international appreciation of the centrality of the role of law in promoting and protecting health, and the awareness that there are many other groups and individuals with an interest and activities in this field who need to be engaged and acknowledged as the movement of the Law + Health Group evolves and gathers momentum.

* The Asia Pacific arm of the Oxford Health Alliance is located at the Australian Health Policy Institute at the University of Sydney and is co-directed by Associate Professor Ruth Colagiuri and Professor Stephen Leeder.

Summary of the discussion

The Dialogue was held in Melbourne at the offices of Diabetes Australia – Victoria to build on the discussion generated from the initial Sydney Dialogue which was loosely predicated on:

1. Defining and scoping the key issue/s around the interface between the law and health
2. Identifying areas and mechanisms in which health policy can be used to shape legislation, and legal policy can feed into health, particularly in relation to the workplace and the broader physical environment
3. Identifying the core elements of a framework for developing a discussion paper on potential areas and pathways for legal and health policy to coalesce to create environments that inhibit chronic diseases

1. Scope:

The Melbourne Dialogue centred almost exclusively on urban planning and design and their influence on physical activity; access to healthy food; and air quality, and the policies and interests that, for better or worse, shape them. As in the Sydney Dialogue the fundamental role of the law in determining and upholding social justice, and the potential of the law to mitigate negative impacts of the physical and social policy environment on health, were taken as given.

While the genesis of the Law + Health work stream is in Australia it was agreed that the geographical scope must be expanded internationally and that our Region (Asia-Pacific) comprises many developing countries that stand to benefit significantly from interventions founded in the interaction between the law and health. Specifically, it was felt that there are excellent models which could be used as building blocks, most notably successes in:

- reform around smoking
- the law in relation to asbestos
- the control of air pollution
- the development of mechanisms for parents to have a voice in public and private policies, programs and products that impact on the food and physical environment of their children
- supportive environments for physical activity eg the Heart Foundation initiative, *Healthy By Design*.

Areas in need of strengthening were seen to include:

- revision/reversal of the constraints the current policy environment imposes on the capacity of (urban) planning to protect and promote health and progress an approach of planning for *health and wellbeing*
- using the law in a positive, proactive manner rather than a negative and restrictive way
- the inclusion of a focus on undoing obstructive legislation and regulatory requirements in addition to contributing new, active requirements

In subsequent discussion this was articulated as a focus on rectifying the present imbalance between competing agendas across sectors either within government or between private and public sector ie policies and activities where what is beneficial to one interest group may be damaging to another or to the larger society. The question of personal versus public responsibility for reducing modifiable health risk was also considered pivotal to consideration of the application of the law to health.

2. Models, mechanisms, and issues for urgent attention

It was noted that public, government and corporate awareness of the link between health and the way our cities and towns have evolved and continue to be constructed, and the implications of this for environmental and economic sustainability, is weak. However, it was acknowledged that there is a growing groundswell of consciousness emanating from a variety of quarters which is slowly permeating though professional and academic circles in the industries and disciplines most intimately engaged in these - and that this awareness is increasing. While it was acknowledged that it is no longer possible to have human activity without using 'energy', transformational change in relation to this is not realistic and we need to devote our energies to incremental but sustainable improvements. Several ideas for accelerating awareness and solutions for mitigating the negative consequences of the way our societies live and do business were discussed:

- *A multi-sectoral and interdisciplinary approach*
While these terms may have become facile through over use in some contexts, there was a strong belief that the current problems cannot be resolved in isolation but require a concerted and cohesive effort. Existing neighbourhood renewal programs provide some good models of co-operation across sectors and disciplines.
- *Good health is good business*
In this discussion 'business' was used loosely to represent both corporate enterprise and government activity. There were several suggestions including:
 - push the human capital/productivity argument to further the health agenda
 - states will always compete to host corporate headquarters: we need to take advantage of this to promote incentives for health promoting workplaces and health conscious industry and businesses
 - create positive incentive for the private sector and employers to invest in their people and facilities to generate better profits
- *The evidence base*
The need to define and identify what constitutes 'best' cities and what works and what doesn't was raised. There was thought to be good quality evidence from public health with regard to land mix use, mass transit and making cities bike-able and walkable but gaps in knowledge about what kinds of regulation work best and the effect of planning regulation on health.
- *A risk by any other name*
Build an agenda around community safety to counteract, for example, the risk-driven restrictions that inhibit physical activity eg fear of litigation in relation to the use of school facilities after hours. A logical flow on from the good health is good business argument might be to use the present widespread emphasis on risk management to put the case for the protection and promotion of health eg:
 - the example of children who rarely play outside in the open having to be referred to ophthalmic psychologists to teach them how to see long distances
 - take a 'no pain no gain' approach to encouraging regulatory authorities to take BIGGER risks to achieve GREATER health gain

With regard to the latter, it was proposed that we need to shift from regulation taking easy low risk options to a model where the risk is shared with those being regulated. Environmental protection authorities are now taking an approach that recognises the choice but makes it clear that the choice they offer is either being assisted to change or being sued for not changing.

- *Competing interests*

The need to bring a balance to the current supremacy of certain interests over others and their negative impact on health and well being was thought to be a matter of some urgency. The example of the sale of fertile primary food producing land for development was deplored as contrary to the interests of population health and well being. Similarly, the housing industry and development push for affordable housing leads to ongoing expansion of relatively poorly designed and “unhealthy” outer suburbs.

- *The health argument vs the ecological argument*

The way individuals, who collectively make up our societies, live now, and the ‘whole’ this generates that is somehow larger than the sum of its parts, is changing the climate and the way we live now is changing the climate. What argument and action can we take to reverse this trend?

- *Lies, damn lies and statistics*

The data is heavily skewed to towards road based transport. There is a wealth of information on the number and movement of cars, busses etc but little or none on walking and cycling. It should be put to the Minister for Roads that he/she is not the ‘Minister for Roads and Cars’ but the minister for the ‘movement of people’ and people can move in many ways

- *Contemporary planning and design for contemporary problems*

This segment of the discussion provided examples and emerging thinking about positive solutions to urban development. It looked briefly ‘back to the future’ in suggesting we borrow the ‘garden cities’ design concept of 100 years ago and looked to the immediate future to embrace and adopt models and strategies such as:

- nationally standardised health guidelines and indices for urban planning and design and current work in (urban) indicator development
- a dynamic mix of housing (large/small, single/multiple dwelling)
- the *Grow Homes* model from Montreal was cited as an example of modular housing to accommodate the changing progression of needs from individual living to couples, to families and its inevitable reversal
- a trend for overall downsizing in housing

3. Towards a framework

The following points have been drawn out of the overall the discussion as to how the elements and intricacies of the interface between the law and health policy might best be conceptualised.

Acknowledging that there are no simplistic answers, a framework for employing the law as a tool for mitigating the impact of the chronic disease of interest to the Oxford Health Alliance - heart disease, diabetes, cancers and chronic respiratory disease – might take account of building an argument and action around the positive potential of the law to:

- Protect and enhance human capital through an application to ameliorating unintended health risks of urbanisation – specifically physical activity, air pollution and food quality and accessibility (from paddock to plate)
- Reduce risk through new policies and regulation and/or by undoing obstructive legislation
- Identify ways in which government might act positively to protect and promote health

Where to next?

This stimulating Dialogue concluded in spirit great energy and commitment for moving to address the identified problems with the forthcoming Oxford health Alliance Summit ‘endorsed’ as a step in the right direction.

There were several suggestions for people and organisations that could and should be drawn into the dialogue. These included some cutting edge activities from Victoria and, more broadly, organisations such BUPA (international) and the Commonwealth Association of Planners.

In the first instance, the summary of the Melbourne Dialogue, once it is agreed by participants as an accurate record of the discussion, will be placed on the Oxford Health Alliance website (www.oxha.org) and circulated to a broader audience opportunistically.