

Minter Ellison Health News

10 February 2010

Case law

Victoria

Inquest into the death of Timothy Jack Wood

Master Timothy Wood ('the deceased') was nineteen and a half months of age when he presented to the Emergency Department ('ED') at the Royal Children's Hospital ('RCH') on 15 July 2005 with a history of a runny nose and a cough for a week, with the cough changing into a loud dry 'barking' cough overnight ('first presentation'). On examination, the deceased was found to be distressed with some soft stridor at rest and normal lung fields on auscultation of his chest. The examining doctor described him as "not looking systematically unwell" and was of the opinion he was well hydrated. The deceased was diagnosed with croup, and oral prednisolone and panadol were administered. The deceased was observed over a two hour period during which time his condition considerably improved, and he was discharged home with prednisolone medication.

The deceased presented to the RCH or the Austin Hospital on three more occasions between 16 July and 19 July 2005.

On his second presentation to the ED, on 16 July 2005, the deceased was assessed by a primary triage nurse as "alert and cooperative, smiling and interacting with staff, pink, warm, dry skin, pink and moist mucous membranes, warm peripheries, mild use of accessory muscles on ventilation, nil inspiratory or expiratory stridor at rest, croupy cough heard". The hospital records indicated that the family did not attend for secondary triage and it was assumed that they had decided to leave before being seen. However, later in the day the deceased's parents believed the deceased's condition to have deteriorated and they telephoned the 24-hour Maternal and Child Health Line, staffed by maternal and child health nurses. They were advised to call an ambulance for transfer and admission to hospital.

The ambulance transported the deceased to Austin Hospital ('third presentation') where the deceased was examined by Dr Millar. Dr Millar noted that the deceased had been diagnosed with croup two days earlier and was experiencing increased cough and shortness of breath. Examination revealed a 'barking cough, mild subcoastal recession when distressed and no stridor' and that he appeared to be well hydrated and that auscultation of his chest revealed no added sounds. Dr Millar diagnosed a viral upper respiratory infection complicated by mild croup and ordered 10 mg prednisolone and a

period of observation in the ED. Upon review after the period of observation, Dr Millar concluded that the clinical findings were all consistent with mild croup and that there were no signs of respiratory illness that would suggest the need for hospitalisation. The management plan was for the deceased to be discharged home, to continue the prednisolone the next night and to be reviewed by his general practitioner the day after.

Shortly before 1:00 pm on 17 July 2005, the deceased was found to be breathless and pulseless. The deceased went into cardio-respiratory arrest, and was resuscitated by ambulance officers before being transported to the RCH ('fourth presentation'). The deceased's condition did not improve over the following 48 hours and brain death was confirmed at 4:00 pm on 19 July 2005.

An autopsy found, and the Coroner accepted, that the cause of death was cerebral anoxia, caused by a cardiac arrest, that in turn was caused by bronchiolitis and bronchopneumonia secondary to influenza A infection.

The deceased's parents expressed concerns that the standard of treatment provided at the RCH during the second presentation and that provided by Dr Millar were inadequate.

Regarding the second presentation, the deceased's parents submitted that the triage nurse told them that the prednisolone and treatment regime was correct and that they would need to line up and wait their turn to be seen. They also said that the triage nurse indicated it would be fruitless waiting as the doctors would "do the same" as they had done the previous evening, and recalled a reference to a vaporizer and a comment that the nurse had tried it on her own two boys and it had been effective. The Coroner was satisfied that the nurse did not advise the family to use a vaporizer, nor convey in words or actions that waiting to be seen by a doctor would be futile. He concluded that the triage nurse had discharged her duties in a competent and responsible manner. However, the Coroner was satisfied that a conversation did take place with a staff member and was not a fabrication or based on a misunderstanding. He stated that the advice of it being fruitless to wait was "clearly inappropriate", with the adviser requiring counselling if she could be identified. The Coroner did not however accept that the act of leaving was sufficiently proximate to the deceased's death to be causative of it.

Regarding the standard of treatment provided by Dr Millar, the deceased's parents submitted that Dr Millar did not appear concerned at the swelling at the deceased's neck, that Dr Millar did not use a stethoscope to examine the chest prior to discharge, and that, in their opinion, Dr Millar just wanted them 'out the door'. The Coroner noted that the evidence as to whether Dr Millar performed auscultation of the chest using a stethoscope was contradictory, with the doctor saying he did, and the deceased's parents saying that he did not. The Coroner also considered evidence provided by a number of experts regarding Dr Millar's decision to discharge the deceased, including the evidence of Dr Tony Joseph, Emergency Physician, who stated that whilst the decision to discharge may have been appropriate, observations should have been performed prior to discharge and there should have been an assessment of fluid intake.

The Coroner could not accept that a consultant would fail to perform such a basic and crucial procedure, especially where a child has represented, and found that the deceased's parents must be mistaken as to their memory or observation. Accordingly, he accepted the evidence of Dr Millar as to his assessment and observations of the deceased immediately before discharge. However, the Coroner concluded that Dr Millar's failure to appropriately record his findings with respect to auscultation and hydration was a departure from the acceptable standards. He also stated that there

were no repeat vital observations, which reflects that observations were not regularly monitored or recorded. However, given the findings on chest examination taken by other practitioners following Dr Millar's assessment and the deceased's discharge, the Coroner found that even had vital observations been regularly taken and recorded, they would not have revealed a picture that contradicted Dr Millar's assessment. The Coroner accepted the evidence of the experts who all agreed that ultimately, it was appropriate for Dr Millar to discharge the deceased. The Coroner concluded that Dr Millar's conduct did not fall below the standard expected .

The Coroner commented that the inquest highlights the importance of complete vital signs being regularly taken and being recorded, and that regular visual observation is all part of 'drawing a picture' in order to ensure the well-being of a patient through appropriate management. He found that this did not occur in this instance. The Coroner also noted that, following the deceased's death, the RCH has put in a variety of measures to reduce failure to wait rates including establishing a GP clinic ('clinic') at the hospital. In the year following the deceased's presentation, the clinic reduced the failure to wait rate from 6.3% to 3.7%. The Coroner recommended that the Department of Health give considering to preparing and disseminating clinical practice guidelines, similar to the 'Acute Management of Infants and Children with Coup' guidelines prepared by the New South Wales Department of Health, for placement in all hospitals and facilities likely to be required to assess or manage children with acute croup.

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News

Aged Care

Australian government acts on nursing home

The Australian Government has imposed sanctions on Whyalla Aged Care Pty Ltd, the approved provider of Copperhouse Court Hostel South Australia.

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Aged care planning and investment needed to meet growing demand

AMA President, Dr Andrew Pesce, said that urgent planning and investment is needed to meet the health and care needs of an ageing and growing Australian population. "Access to medical care for older Australians in residential aged care is limited," Dr Pesce said.

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Biotechnology

Beyond Borders: Global biotechnology report 2009

Ernst & Young's 23rd annual biotechnology report reveals how firms are responding with business strategies, new funding sources and creative deals. It also provides historical context, comprehensive data and insightful analysis to show how the business of biotech is going beyond business as usual.

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Biota expects H1 royalties of \$56.7m

Biota Holdings Limited expects indicative royalty income of \$56.7 million from its flu drug Relenza in the first half of the 2009/10 financial year.

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General Health

Seriously ill patients hit by rising medical costs

Chronically ill patients face costs for medical items such as wound dressing and oxygen supplies running into hundreds of dollars a week because of the growth in out-of-hospital care not covered by Medicare.

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ResMed books 42% life in first-half net income

ResMed Inc says it is well positioned for the future, after the sleep management company booked a 42 per cent rise in net income for the first half of the 2009-10 financial year.

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New superbug a risk to Australia: Expert

Australian researchers are scrambling to develop drugs to fight off a new superbug that is killing people overseas.

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Call for national medical curriculum

The head of one of Australia's major medical schools has called for students to be assessed against national competency standards to ensure they have core skills, after a government report revealed alarming gaps in junior doctors' skills.

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Intergenerational report 2010

The *Intergenerational Report* provides a comprehensive study of the challenges that Australia will face over the next 40 years, including an ageing population, escalating pressures on the health system, and the environmental and economic challenges of climate change. Mr Swan said the report shows that population ageing and escalating pressures on our health system will put major pressures on the federal budget over the next 40 years.

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Health Insurance

NIB warning over share offer

NIB Holdings Limited has warned shareholders they may receive an unsolicited offer for their shares at less than half their recent trading value.

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Hospitals

States push back against national hospital takeover

The Federal Government appears increasingly unlikely to seek a mandate to take over public hospitals, as a revamp of community health and GP services instead moves to the centre of the national health reform agenda.

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Ramsay upgrades core net profit guidance

Ramsay Health Care Limited expects first half core net profit to rise more than 30 per cent after better than expected performances in its UK and Australian businesses.

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Pharmaceuticals

Wall Street slips on weak Pfizer results, outlook

A retreat in healthcare stocks weighed on the US stockmarket as Pfizer's quarterly report and revenue outlook cooled investors' enthusiasm about earnings season.

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Preventative Health

Artificial pancreas offers better chance for diabetics

Scientists have successfully tested an "artificial pancreas" that promises to reduce the danger that a person with type 1 diabetes will have a seizure or even die in their sleep because their blood sugar falls too low.

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Mental health needs early care: health system

Every 15 minutes someone somewhere in Australia attempts suicide. Every four hours someone dies as a result.

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New Zealand

Hutt Valley DHB boss gets national job

Hutt Valley District Health Board chief executive for the last seven years, Chai Chuah, has been appointed the first national director of the National Health Board ('NHB') business unit at the Ministry of Health.

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System under fire after aged-care death

The death of a rest-home resident after an altercation with another dementia patient has prompted fresh calls for an overhaul of the aged-care system.

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Patient found under resident's walking frame before death

Rest home nurses who rushed to an 82-year-old dementia patient's scream found her on the floor with another patient's walking frame on top of her.

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