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Patient Safety & Justice News

Issue 2 - March 2015

Welcome to issue 2 of AvMA's bi-monthly newsletter. We'll email you every couple of months with news of developments in the world of patient safety and justice; inspiring stories from people affected by medical accidents; AvMA's work, and ideas on how you can get involved.

AvMA (Action against Medical Accidents) is the UK charity for patient safety and justice. For more information visit our website: www.avma.org.uk

News

AvMA challenge government plan to water down the Duty of Candour for primary care and private healthcare

Morecambe Bay report highlights repeated failures to be open and honest and has national implications for the NHS



AvMA has publicly demanded the Government change controversial plans to water down the statutory Duty of Candour that will apply to providers of NHS primary care (GPs, dentists and pharmacists) and in private healthcare from April 2015.

The statutory Duty of Candour applying to NHS Bodies came into force on 27th November 2014 following a long campaign led by AvMA and the recommendations from the Mid Staffordshire NHS Foundation Trust public inquiry. Crucially, AvMA were successful in persuading the Department of Health that the definition of a “notifiable safety incident” covered by the duty includes incidents which “in the reasonable opinion of a health care professional, could result in, or appears to have resulted in” significant harm. This wording, “could result in” is absent from the new draft regulations before parliament where they apply to NHS primary care providers and private healthcare providers.

This means that incidents that have the potential to result in significant harm to a patient would not have to be disclosed to the patient by those providers. If the same incident happened in an NHS hospital for example, they would. NHS patients treated by GPs, dentists and pharmacists would enjoy substantially different



AvMA welcomes [Dr. Kirkup's report](#) published 3rd March, but has called for action at a national level to ensure individual maternity services, regulators and the Parliamentary and Health Service Ombudsman learn from the tragedy at Morecambe Bay. AvMA provided support to the family of Joshua Titcombe whose death was one of the key cases that led to the inquiry and campaigned alongside the many families affected to secure the inquiry. The [Morecambe Bay action group responded with a statement](#) to the Kirkup report. [Read more...](#)

Medical Innovation Bill Averted

THE  TIMES

Letters to the Editor

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AvMA welcomes the fact that the Medical Innovation Bill will not proceed any further in this parliament and that instead there will be an independent review to report on what the real barriers to medical innovation might be and how it

rights than those treated in an NHS trust. [View draft regulation 20](#) which covers the Duty of Candour. AvMA has written to the Secretary of State for Health asking for the regulations to be replaced with new ones setting a consistent standard for the Duty of Candour across the whole of healthcare in England. View [AvMA's letter](#)

AvMA is also taking legal advice as to whether the new regulations are lawful, given that there was no consultation on creating a different Duty of Candour for primary and private healthcare.

can be supported. That is something AvMA had argued was a better approach all along. The majority of leading patients' and doctors' organisations agree that the Bill, whilst well intended, was unnecessary and harmful to patient safety. No patient will miss out as a result of the Bill being lost and the independent review offers real opportunities for improvements. Ideally the Bill should have been rejected through the parliamentary process but in effect it has run out of time. It would have been wrong to make a special case for this Bill to leapfrog all other private members' Bills. Health Minister, Norman Lamb quoted a [joint letter published in The Times newspaper](#), signed by the chief executives of AvMA, the Patient's Association and National Voices, in justifying his decision not to give the Bill special treatment.

Increased court fees create further barrier to access to justice



Following a consultation entitled "Court Fees: Enhanced Charging" which closed December 2014, the government has made substantial increases to the court issue fee. These changes

Inquest highlights problems with National Early Warning Score



An inquest in which AvMA supported the family of Mrs Barbara O'Brien has identified problems with the National Early Warning Score. It has been used in hospitals since 2012. A score is attributed to a patient's vital signs such as systolic blood

were introduced by way of statutory instrument and debated in the House of Commons on 23rd February and in the House of Lords in early March.

AvMA believes the increase in fees (up to £10,000 just for the issue fee) will be an obstacle to access to justice for those people affected by clinical negligence. AvMA is working with a number of partners, including the Law Society, the Bar Council, APIL and FOIL to garner support from MPs and others to challenge plans to increase court fees from April 2015.

In addition AvMA is concerned these changes will make it harder to find a solicitor if the case is difficult or complex, also it means smaller firms may be pushed out of this area of work. [Click for more materials and information on enhanced fees.](#)

Guest Feature - Father succeeds in getting new guidelines following misdiagnosis of daughter



Over the last 3 years Fuad Mohammed has campaigned tirelessly to get to the truth behind how his daughter's Aniridia, a rare genetic condition which causes a lack of irises in the eyes and poor vision from birth, missed

pressure, oxygen saturations, heart rate and respiratory rate. The cumulative score determines the care and whether escalation is required. The NEWS system in theory is certainly a good one but whether it is working well in practice is difficult to discern. In a case AvMA recently dealt with as part of its Pro Bono Inquest Project, there seemed to be a systemic failure to calculate the NEWS score correctly and/or escalate care appropriately as required.

Mrs. Barbara O' Brien (71) was admitted to Princess Alexandra Hospital in Essex on 8 January 2013 having been diagnosed with Lobar Pneumonia. Her expected mortality rate upon admission was stated to be 3%. Over the course of her stay in hospital her NEWScore was either miscalculated, which occurred 80% of the time or when it was correctly calculated the protocol was not followed and her care was not escalated. On one occasion a doctor was paged but did not attend for 15 hours. She sadly died on 13 January 2014.

An Inquest into her death took place on the 4th of November 2014 before HM Coroner Eleanor McGann. She expressed concern at how it arose that 'simple numbers' were not added up correctly. It resulted in the seriousness of Mrs O' Brien's condition not being appreciated and her not receiving the intervention she required. The Coroner gave a narrative verdict. Although the Coroner did not include in her conclusion whether or not the failures in relation to the NEWScore would have saved Mrs O' Brien, it is quite clear that in this case the NEWS system did not operate as it was intended. [Click here to read the full case review.](#)

diagnosis. He persevered in his mission to prevent this happening to others and succeeded in getting the NHS's newborn and infant physical examination programme's guidelines to diagnose and treat such conditions changed. [Click here for his story...](#)

AvMA gives evidence to Public Administration Select Committee on NHS complaints and clinical failure



AvMA's Chief Executive, Peter Walsh, gave evidence in February to the Public Administration Select Committee which is looking into NHS Complaints and Clinical Failure. [Peter Walsh's oral evidence](#) and [AvMA's written evidence](#) can be viewed on the Committee's website.

Whilst AvMA is cautiously supportive of the potential benefits of the proposed independent investigation agency to investigate serious incidents in the NHS, we have warned that the notion of making the outcome of such investigations 'legally privileged' (e.g. the patient/family and possibly NHS bodies or regulators not being able to use the evidence for other purposes such as litigation or regulatory

Song of endeavour; round Britain bike ride - Fundraising Event



This June will see John Whelan of Liverpool riding his bicycle for 45 days covering 2,089 miles around the coast of Britain including Land's End and John O'Groats to raise money for three charities including AvMA. His aim is to raise £10,000.

John will be riding on a tandem and is accompanied by his faithful companion 'Lucky' on the rear saddle. Said John "I expect to be more noticed with a tandem and a toy, lifelike, doggy on the back..... it's different, wacky enough to raise a smile, and overall it's a bit of fun – and of course company"

action to protect other patients) would be misguided and unfair, arguing that there should be no 'strings attached' to getting the full facts.

John was inspired to take up the challenge of riding around the coasts of England, Scotland and Wales after the tragic death of his young daughter. John first contacted AvMA in 1986 when he needed to pursue a medical negligence case after his daughter had died. Said John, "AvMA provided us with invaluable information giving my family and I the courage to carry on knowing others were experiencing similar problems. AvMA was also crucial in putting us in touch with an appropriate solicitor in Liverpool. When we didn't know what to do or where to turn to AvMA helped. This is the reason I want to support AvMA today."

Please support John - [Donate to his AvMA Mydonate page.](#)

2nd Annual AvMA Legal Medical Choir of the Year Evening of 17th November 2015, Central Baptist Church, Bloomsbury



2014 was a great success with two choirs winning the joint prize of a concert in the Brandenburg Festival. This year should be even more fun with more choirs entering and lots of prizes to be won. Each choir performs, the audience show their support then the judges decide - it is that simple!

Our first challenge in October 2014 saw choirs

Annual Clinical Negligence Conference and Charity Golf Day, 26-27 June, Royal Armouries Museum, Leeds



AvMA's Annual Clinical Negligence Conference (ACNC) is the event that brings a 500 strong clinical negligence audience together to learn and discuss the latest developments, policies and strategies in clinical negligence and medical law. The programme this year has an obstetrics theme, whilst also still covering many other key medico-legal topics.

from a number of legal firms entering and the standard was high with great performances from everyone. Joint winners were Shoosmiths Singers and Stewarts Law choir "Legal Harmony". The event is supported by City Music Services and Legal Harmony. All those who take part will be entitled to join our mass choir event due spring of 2016 at a world famous London venue.

If you have a choir in your company do join us. If you want to start a choir we can help. For more information contact - Phil Walker at AvMA on 020 8688 9555 or email him at philipwalker@avma.org.uk

AvMA Annual Charity Golf Day, Thursday 25th June, 2015 Rudding Park, Harrogate, Yorkshire



The eleventh AvMA Charity Golf Day will take place on Thursday 25 June 2015 at the stunning Rudding Park Hotel in Harrogate. The Welcome Event for the Annual Clinical Negligence Conference will take place later that evening in the Sky Lounge at the Doubletree by Hilton Hotel in Leeds (30 minutes' drive away), so the Golf

Networking is also a big part of the ACNC experience. On the day before the start of the conference, we will be holding our Annual Charity Golf Day at Rudding Park in Harrogate, and our Welcome Event will take place later that evening in the Sky Lounge on the 13th floor at the Doubletree by Hilton Hotel, Leeds. The Mid-Conference Dinner will be held on the Friday evening.

As well as providing thought-provoking, learning and networking experience, the success of the conference helps AvMA to maintain its position as an essential force in promoting justice.

For full programme and registration details please go to www.avma.org.uk/events or email conferences@avma.org.uk

First ever curry school proves popular with delegates



On Thursday 25th June we offer our first ever AvMA Curry School at the Hansa Restaurant in Leeds supported by Irwin Mitchel LLP Leeds. This is an additional event to the annual golf day traditionally held on the Thursday of the annual conference. The curry school has proved so popular that two thirds of the available places were booked even before the event was officially

Day offers the perfect start to *the* essential event for clinical negligence specialists.

We will be playing Stableford Rules in teams of four and you are invited to either enter your own team or we will be happy to form a team for you with other individuals. The cost is only £98 + VAT (total £117.60) per golfer, which includes bacon rolls on arrival, 18 holes of golf and a buffet, drinks and prize-giving at the end of the day. All profits go directly to AvMA's charitable work. Should you have any queries please contact the AvMA Events team on 020 3096 1140 or email conferences@avma.org.uk

announced.

So for a modest sum guests will have three hours of expert training in award winning Chef Hansa Dabhi's very own kitchen and then get to eat everything they've prepared. So in demand has the curry school been that we are looking to hold similar events across London, Birmingham and Manchester.

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