

Original Communication

Analysis – What is legal medicine?

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Abstract

Legal medicine addresses the interface between medicine and law in health care. The Australian College of Legal Medicine (ACLM) established itself as the peak body in legal and forensic medicine in Australia. It helped establish the Expert Witness Institute of Australia (EWIA), the legal medicine programme at Griffith University and contributes to government enquiries. Public health, disability assessment, competing priorities of privacy versus notification and determination of fitness for a host of pursuits are aspects of legal medicine. Complementing the EWIA, the ACLM runs training programmes emphasising legal medicine skills additional to clinical practice, advocating clinical relevance. Assessment of athletes' fitness and ensuring that prohibited substances are not inadvertently prescribed represent a growing area of legal medicine. Ethical consideration of health care should respect legal medicine principles rather than armchair commentary. International conventions must be respected by legal medicine and dictate physicians' obligations. The NSW courts imposed a duty to provide emergency medical care. Migration and communicable diseases are aspects of legal medicine. Police surgeons provide a face to legal medicine (which incorporates forensic medicine) underpinning its public perception of specialty recognition. Legal medicine deserves its place as a medical specialty in its own right.

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1. Introduction

Legal medicine is the discipline that covers the interface between medicine and law as perceived and practiced by those within the medical profession. It is the medical equivalent of health law but has far greater ramifications for the delivery of health care than hitherto has been appreciated.

In the same way the newly-formed Faculty of Forensic and Legal Medicine (FFLM), of the Royal College of Physicians (London) is seeking to have the discipline recognised as a specialty in its own right in the United Kingdom, so the Australian College of Legal Medicine (ACLM) is preparing a submission to the Australian Medical Council (AMC) to have legal medicine recognised as a

specialty and the ACLM to be seen as the peak body representing forensic and legal physicians in Australia.

When the average person is asked, "What is legal medicine?" the answer is usually focused and restricted to expert witness participation and the courts. This is only a small part of a much wider discipline, which encompasses much of what doctors do and has ramifications in all arms of the practice of medicine. It has evolved over the years to the point that it was felt that legal medicine deserved its own representation with its own College and hence, more than a decade ago, the ACLM was formed.

Application of legal medicine has the capacity to touch upon all aspects of the delivery of patient care. It was the basis for the need for tort reform, in Australia, when considering medical negligence. It has resulted in the newly coined terms of, "defensive medicine" or "risk management practice", which impacts on how doctors practise medicine, keep their records, advise patients of the risks

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and problems associated with various forms of therapy and how they apply informed consent to patient management which respects material risks. Since the landmark case of *Rogers v Whitaker*,¹ doctors have been acutely aware of the need to give patients sufficient information to allow them to be empowered to make informed decisions as to their management and what is acceptable risk to them. This provides a perfect example of how legal medicine has affected overall health care.

What follows is an analysis of legal medicine as provided by a clinician who has been involved with the ACLM since its foundation and is also proud to have honorary Fellowship of the FFLM.

2. Historical background and evolution

As was previously reported in this journal,² the ACLM was formed more than a decade ago when it was realised that legal medicine was no longer an auxiliary discipline but it was a discipline in its own right which required proper training, experience and capacity to support the rest of the profession within this specialised area. The ACLM accepted that forensic medicine was part of legal medicine and more recently, the Australian and New Zealand Forensic Medicine Society (ANZFMS) acknowledged the pre-eminence of the ACLM as the peak body in legal medicine and it unilaterally elected to disband and join the ACLM en masse. This was done to achieve the recognition that legal medicine so rightly deserves as a potent and viable specialty area within the broader concept of medicine. Consequent to this merger, the ACLM has become an integral player within the International Symposium of Forensic Sciences held second yearly throughout Australia, having been held in Perth in 2006 and due to be held in Melbourne in 2008.

Amongst its membership, the ACLM includes doctors with specialty interests in a whole range of medical practice, including obstetrics and gynaecology, neurology, orthopaedic surgery and anaesthetics, to name but a few, as well as including general practitioners who hold post-graduate qualifications, such as the FRACGP. There are also many Fellows trained in forensic medicine and forensic pathology, the two not being necessarily the same discipline. Legal medicine covers forensic physicians and offers training in various aspects of the delivery of health care, including administrative medicine, which cannot be adequately practiced without a clear understanding of the legal ramifications. Legal medicine also incorporates military medicine and the need to respect international conventions and practices to safeguard the rights of participants in conflicts from both sides of that conflict, be they allies or foe, to ensure that humanity respects that which is right and proper.

Consequent of its commitment to enhance the practice of legal medicine, the ACLM was instrumental in the establishment of the Expert Witness Institute of Australia (EWIA) and has collaborated closely with the Institute,

such that its Fellows participate in EWIA meetings. The inaugural President of the ACLM, Dr Maurice Wallin, remains one of the Directors of the EWIA, an organisation which has gone well beyond just medicine and looks at the role of expert witnesses from all walks of life, such as forensic accountants, engineers or any other discipline that requires an expertise, above and beyond lay knowledge, to ensure justice within the legal system.

The ACLM has not worked in a vacuum and an example of the wider acceptance of legal medicine, as a specific medical specialty, has been demonstrated by the partnership between the School of Medicine at Griffith University in Queensland, and the ACLM, in sponsoring the Master of Legal Medicine program at Griffith University. More recently there has also been an idea to offer post-graduate certificates and diplomas in legal medicine. The School of Medicine, at Griffith University, headed by Professor Judy Searle, has demonstrated an appreciation of the need to teach legal medicine to the medical profession around Australia. It has embraced the concept of teaching the discipline at a respected and academically acceptable level and the partnership between the ACLM and the University is further evidence of the need to recognise legal medicine as an important discipline within the wider delivery of health care.

As part of its recent review of services for sexual assault victims in New South Wales, KPMG, an internationally recognised, non-governmental company which may be contracted by other organisations, such as the government, to undertake a variety of projects (although it is best known for its accountancy practices), sought the input of the ACLM as a recognised peak body. Within the Australian context, a peak body is one that is accepted, on the basis of its standing within the community, to hold sufficient respect to be permitted to express a perspective which may be considered representative of opinion leaders in the field. Such a peak body is able to comment on behalf of those within a given field, which is under review, and for those opinions to be considered to be widely representative of the experts in that field.

This encouraged the ACLM to review its stand on the topic and assisted the review process to get input from people trained within legal medicine and the delivery of services in areas where both the practice of medicine and the practice of forensic science and medicine combine so easily. To practice one, without due consideration for the other, would destroy valuable evidence, fail to look after patients properly and has the potential to violate patient's rights. It is reassuring to see that not only does the ACLM see itself as a peak body, with the potential to provide critical input into the assessment of healthcare delivery, but government contractees, such as KPMG, have made unsolicited approaches to the College to seek its advice and consideration as a relevant peak body.

While the practice of legal medicine is determined by the jurisdiction in which it is applied, it is not an isolated parochial discipline but rather one that has international

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