

March 2008

## Health News

Legal Issues update for the Health Profession

### WELCOME TO 2008

We at Snedden Hall & Gallop have now been in our new premises at Deakin for almost 12 months. We are well settled and feel that our new premises offer our clients and contacts easier access and available parking, as well as providing an excellent working environment.

There are many legal issues that seem likely to have an impact upon the health profession and through the health profession upon our clients and your patients.

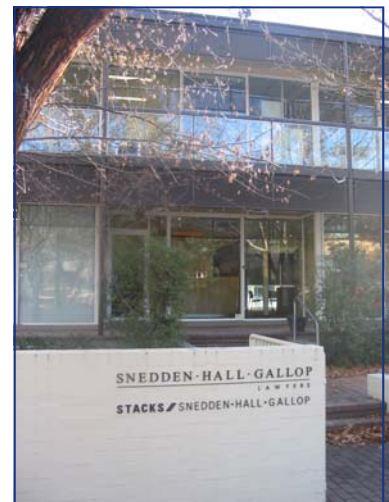
This edition of our newsletter provides an update concerning a major overhaul of the motor vehicle accident laws in the ACT which, at this stage, are scheduled to commence from 1 July. These changes include an emphasis on early intervention and funding of rehabilitation. In addition, we have sought to highlight important changes to the laws relating to powers of attorney.

This year also is likely to bring about other changes in the law relating to workers compensation. As previously advised, the ACT government

has undertaken an extensive review of the workers compensation laws and we have had some involvement in submissions concerning those proposed changes. The government is currently considering its options. On the national level, the federal government has made changes allowing for some national employers to opt out of the ACT Workers Compensation Scheme and into the Comcare scheme. The new Rudd government is currently conducting an enquiry into the impact of that change. You are also probably aware that for government employees, there are no longer workers compensation claims for accidents that occur going to or home from work.

We anticipate that 2008 will bring about other important changes and we will endeavour to highlight them in our regular newsletter.

**Richard Faulks**  
Managing Director



*Finding a lawyer in  
Canberra is easy...*

**Stacks//Snedden Hall & Gallop**

**43 - 49 Geils Court, Deakin**



## NEW POWERS OF ATTORNEY

If you are too sick to make decisions about your own care, or perhaps are temporarily incapacitated because of an accident, it is important that the decisions concerning your welfare are made by somebody you trust and can rely on to do the right thing.

If there is no family member present and no Power of Attorney, then often such decisions are made through a complicated legal procedure under the Guardianship & Management of Property Act. The Public Trustee and/or the Public Advocate may be appointed to make decisions on your behalf. They are of course, guided by the doctor's advice and the wishes of the family, however, this may not coincide with what you may consider is in your best interests if you were not incapacitated.

It is very important that you give consideration to preparing a Power of Attorney. In 2006, the ACT Government changed the Powers of Attorney Act to prescribe a new form of Enduring Power of Attorney to overcome what it perceived as the risk of elder abuse and misuse of assets by attorneys appointed under the old system. The new prescribed Power of Attorney is a relatively simple form, which involves the completion of certain personal details, selecting the powers that you wish to confer on the attorney, and a careful system of verification and signing.

**Bill Andrews**

### Upcoming Seminars at Snedden Hall & Gallop

- ✘ **Personal Injury Claims**  
Wednesday 5th March  
5.30pm - 7pm
  - ✘ **4 Business Basics**  
Wednesday 12th March  
5.30pm - 7pm
  - ✘ **Fair Work Australia:  
New Workplace Relations Reforms**  
Wednesday 19th March  
5.30pm - 7pm
- To reserve your seat, call Laura on (02) 6285 8000 or email [reception@sneddenhall.com.au](mailto:reception@sneddenhall.com.au)

## CHANGES TO MOTOR VEHICLE ACCIDENT PERSONAL INJURY CLAIMS IN THE ACT

**The Road Transport (Third Party Insurance) Bill 2007 has been presented to the ACT Legislative Assembly and is expected to commence in mid to late 2008. The new legislation is expected to result in costs savings leading to reduced CTP premiums. The legislation will remove barriers to competition and open up the ACT CTP insurance market to other insurers, bringing an end to the current monopoly held by NRMA.**

Strict time limits will apply during which a claimant must give notice of their claim. Notice of the claim must be given within 9 months of the date of accident or within 1 month of the date the claimant instructs a solicitor, whichever is the shortest period. If notice of the claim is not given within the prescribed time frames, a reasonable excuse for the delay must be given. The insurer will be required to respond to the claim within 1 month of receiving the claim.

Importantly, if the at-fault motor vehicle was unregistered or unidentified, notice of the claim must be given to the Nominal Defendant within 3 months of the date of the accident, or the claim will be barred. The Nominal Defendant will not be able to waive compliance within the 3 month time limit, nor will a Court be able to give leave to allow an injured person to bring a proceeding if they failed to comply with the prescribed time limit.

The insurer will be required to pay for medical expenses and rehabilitation services, only if the claimant gives a

motor accident notification form **and** a medical report prepared by a doctor to the insurer no later than 28 days after the motor accident. A claimant is entitled to payment for medical expenses only if the insurer admits liability for the motor accident claim and, either a police officer attended the motor accident or the motor accident was officially reported to the police by the injured person.

Settlement discussions are encouraged with compulsory conferences being mandatory before Court proceedings can be commenced. If the claim is not settled at the compulsory conference, mandatory final offers must be made.

Interestingly, there is provision for the CTP insurer to recover an excess of up to \$500 from a driver who was more than 25% at fault for the motor accident. Further, the insurer may recover from the at-fault driver any costs incurred for the claim for personal injury if the driver used the motor vehicle without the owner's authority and without lawful justification or excuse. Likewise, there is provision for the insurer to recover the cost of the personal injury claim if the at-fault driver was using alcohol or drugs.

The anticipated changes to the law mean that it is more important now than ever before for injured claimants to seek legal advice immediately in relation to their entitlements and obligations.