

Report on Conference, **Clinical Negligence and Access to Justice**. Held in the Radisson Blu Royal Hotel Dublin on April 22nd 2010.

By Anne Grace.

This conference was held by AvMA (Action against Medical Accidents) supported by Patient Focus.

The Chairman of AvMA, Peter Walsh welcomed the delegates and speakers and he introduced the first speaker, Jim Reilly of Patient Focus.

Jim Reilly gave a power point presentation on how his organisation came into being. This information can be found on Patient Focus website.

The next speakers were Willie and Kay Dunne who gave a harrowing account of their personal experience of clinical negligence. Their twin boys were born in Holles Street Hospital in 1982. One was born dead and the other suffered brain damage. The Dunes sued the hospital and Dr. Reginald Jackson. They outlined the difficulties they encountered during this process and reached the High Court in July 1988. The case went to a jury and a verdict of medical negligence was returned against the hospital and the Dunes were awarded £1 million. However the verdict was appealed to the Supreme Court and a ruling was given by Justice Finlay to return the case to trial. Finally the hospital accepted a judgement against it for £400,000 and the case against the doctor was dismissed. This was an excellent and moving presentation.

Justice William McKechnie gave a paper entitled: **Under the Knife: Reform or Suffer: Clinical Practice**. Justice McKechnie proposed that much of the law regarding clinical negligence should be reformed. He referred to the Dunne case and he pointed out areas of the rules which, in his opinion, should be amended. A lot of what he said was very technical and he repeatedly referred to S1391. There was no copy of his paper. AvMA said that they would email copies of the papers that were missing from the package that was given to each delegate but so far none have been received.

The Dublin City Coroner, Dr. Brian Farrell was the next speaker and he explained what the job of the coroner is. **The Coroner's Viewpoint** outlined how an inquest does not lay blame and is not allowed to give a verdict of guilty or innocent. The only function of an inquest is to find out what happened and how the person died. He said that sometimes relatives of the deceased did not understand that the coroner was limited in what he/she could provide by way of satisfaction.

**The Medical Expert's Viewpoint:** Roger Clements, retired consultant Obstetrician and Gynaecologist, acts as an expert witness and spoke very critically of the system in the law

courts. He agreed with Justice McKechnie that there should be reforms and it should be easier for people who have suffered from clinical negligence to take cases to court.

Dr. Ailis Quinlan is the Head of Clinical Indemnity Scheme which is the State Claims Agency. She gave a paper called **Patient Safety – The State Claims Agency Perspective** in which she gave a comprehensive picture on how straightforward, from the State Claims Agency's perspective, it is to claim for clinical negligence. The impression given was one of ease for plaintiffs to pursue cases. Dr. Quinlan gave statistics and went through her presentation with confidence and would give hope to anyone with a case that there would be a satisfactory outcome.

Michael Boylan, from Augustus Cullen Law, refuted a lot of what Dr. Ailis Quinlan said and in his paper **Open Communication with Patients Following a Medical Accident – the Gulf Between Policy and Practice**, he pointed out just how difficult it is to pursue a claim. He gave examples in his case studies. Mr. Boylan's paper can be read on line at Augustus Cullen Law.

I did not hear Susie Elliott's paper or Rebecca O'Malley's presentation as the conference was running late and I had to catch a train.

Susie Elliot's paper followed on from Michael Boylan's and the theme was the same. Rebecca O'Malley, who is a Patient Safety Champion gave a paper: **Introducing a Duty of Candour**.

Comment: My personal opinion is that this conference was very informative. There were quite a lot of solicitors there. I get the impression that medical negligence is big business and I do not see the system of 'No fault compensation' (which our organisation supports) becoming a reality anytime soon in Ireland. This conference brought home to me how very difficult it is to pursue a claim of medical negligence in this state, whether it is through the law courts or through the State Claims Agency. It would appear from the papers of all the presenters except Dr. Ailish Quinlan that every obstacle is put in the way of a plaintiff's access to justice regarding clinical negligence.