

Emerging Medico-Legal Trends

Reading time:

MIPS Education

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The healthcare landscape is constantly evolving, shaped by advances in technology and updates in regulatory frameworks. In this dynamic environment, medical and dental practitioners face a myriad of challenges and opportunities.

In this webinar, our panel will review some of the key medico-legal trends and controversies over the last six months, including changes to prescribing requirements, and recent case law around independent medical experts, and the practitioner's duty of care.

With the rise of artificial intelligence in healthcare, the panel will also examine how emerging trends are reshaping the delivery of medical services and the implications for legal compliance.

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Learning outcomes

At the end of this webinar, attendees will be able to:

- Discuss medico-legal risks arising from new developments in healthcare practices.
- Identify medico-legal guidelines and best practices pertaining to prescribing and AI powered medical software.
- Develop practical insights and strategies for mitigating risks and addressing ethical, legal, and regulatory challenges related to emerging technologies and regulatory frameworks.

Resources & Key Takeaways

Topic	Key takeaways	Resources
Prescribing non-TGA registered medicines	<ul style="list-style-type: none">• Medicines not listed / registered on the Australian Register of Therapeutic Goods (ARTG) have not been tested by the Therapeutic Goods Administration (TGA) and should only be used when a commercial product is unavailable or unsuitable.• There must be evidence to justify the use of a non-TGA registered product.• Patients must be informed the medication is not subject to the same safety and quality standards and long-term risks may be unknown. This should be documented in the clinical record.• Examples include nicotine vaping products and compounded medications.	MIPS articles: Prescribing of Nicotine Vaping Products Medicolegal Considerations When Prescribing Compounded Medications
Different rules in different states	<ul style="list-style-type: none">• There are different laws in each Australian state / territory on prescribing of Schedule 8 drugs and drugs of dependence.• These differences in may require prescribing permits or checking of state-specific monitored medicines databases.• Don't forget telehealth situations where you may be having an online interstate consultation.• We recommend when you check your patient's ID at the start of a telehealth consultation you also confirm their physical location.• Laws can be complex and confusing and we advise you seek advice. Contact MIPS online or phone 1300 698 509.	ACT NSW NT QLD SA TAS VIC WA

Real-time prescription monitoring databases	<ul style="list-style-type: none"> • Every state and territory has a real-time prescription monitoring database to assist you when prescribing high-risk medicines. • In Victoria and Queensland, it is mandatory to check SafeScript or QScript before prescribing a monitored medicine. • Failure to check these databases before prescribing monitored medicines is a breach of legislation and can lead to criticism from the Coroner. 	Coronial inquest involving failure to check SafeScript in Victoria
Prescribing for family and friends	<ul style="list-style-type: none"> • Prescribing for family and friends is not unlawful in most States and Territories, however the Medical Board of Australia's Code of Conduct strongly recommends against this practice (except in an emergency or in some rural / remote settings). 	Medical Board of Australia Newsletter June 2024
Telehealth and data matching	<ul style="list-style-type: none"> • The Department of Health and Aged Care can match data with the Department of Home Affairs to ensure that both the provider and the patient are within Australia when rendering services under the Medicare Benefits Schedule. 	<p>Medicare benefits are only payable for services rendered in Australia, to an eligible person:</p> <p>Health Insurance Act 1973 – s 10</p> <p>Hunt, 'Second reading speech': Health Legislation Amendment (Data-matching) Bill 2019</p> <p>Updated telehealth guidelines</p>
Voluntary Assisted Dying (VAD)	<ul style="list-style-type: none"> • VAD is now lawful across Australia, except in the ACT (to commence Nov 2025) and the NT. • Failure to follow the strict legal requirements can result in substantial fines and disciplinary action. 	Importance of ensuring strict criteria and process
Telehealth and VAD	<ul style="list-style-type: none"> • It is an offence under the Criminal Code Act 1995 (Cth) to use a 'carriage service' (such as a telephone, videoconference, email or other forms of electronic communication) "to publish or distribute material that counsels or incites committing or attempting to commit suicide". • Do not use telehealth or other electronic means while participating in or providing VAD services throughout Australia, even though VAD is a legal health service in all Australian states. 	Ban on using telehealth for VAD
Social media	<ul style="list-style-type: none"> • Inappropriate posts, comments or reactions can reflect on your registration suitability (even if your content doesn't relate to your role in providing health services). • There are many cases where practitioners have been suspended or reprimanded for inappropriate social media activity. • Always respect patient confidentiality. • Ensure that your posts reflect your practice and professionalism in a positive way. 	<p>MIPS article:</p> <p>Social media and Healthcare</p>
Duty to follow up patients	<ul style="list-style-type: none"> • Part of your duty of care is to follow up referrals or abnormal test results. • Recent case law has clarified the effort practitioners must go in following up patients. • Clinical records should document all advice given about the importance of recommended tests or investigations, and all attempts to follow up. • You need to have robust 'follow up' systems in place – and referrals or tests for potentially more significant diagnoses need to be treated with more urgency than those for less potentially significant diagnoses. 	<p>MIPS article:</p> <p>GP Successfully Appeals Negligence</p> <p>Austen v Tran [2023] ACTCA 44</p>

Emergence of single diagnostics clinics	<ul style="list-style-type: none">• Ahpra's current focus is on the rise of single diagnostic clinics. Concerns about clinics providing predetermined medicines driven by demand for medicinal cannabis, compounded medicines, and semaglutide products.• Ahpra has established a unit to address non-compliance and uphold professional standards.• Practitioner responsibility when prescribing and dispensing medicines involves comprehensive patient evaluation and evidence-based treatment recommendations.	Concerns raised over emerging models of care
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MIPS resources

- [MIPS on Demand Online modules with CPD](#)

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