CONFERENCE

Business as usual?
Debating the role of industry in meeting the challenges of chronic disease

Friday 29 February 2008
9:15 AM - 3.45 PM

KEYNOTE SPEAKERS

Professor Lawrence Gostin
Linda and Timothy O’Neill Professor of Global Health Law, Georgetown University, Washington DC, and Director, O’Neill Institute for National and Global Health Law

Professor Fiona Stanley AC
Founding Director, Telethon Institute for Child Health Research; Executive Director, Australian Research Alliance for Children and Youth (ARACY); Professor of Paediatrics and Child Health, University of Western Australia

Professor Stephen Sugarman
Roger J. Traynor Professor of Law, School of Law, University of California, Berkeley

OTHER PRESENTERS

Dr Rosemary Stanton OAM
Professor Wayne Hall
A/Professor Roger Magnusson

VENUE: Assembly Hall, Ground Floor, Faculty of Law, University of Sydney, 173-175 Phillip Street, Sydney
Business as usual?
Taming industry, or partnering up? Debating the role of industry in meeting the challenges of chronic disease

What role do the food, tobacco and alcohol industries, and business generally, have in responding to chronic diseases and other public health challenges facing Australia? Are there opportunities for partnerships and alignment between the goals of public health and those of for-profit companies? Or is a “command and control” approach more likely to achieve real results? To what extent should government get involved, and what are the priorities for action?

This conference presents an outstanding array of experts from Australia and the United States who will provide new perspectives on the challenge of regulating industry in order to protect the public’s health, with particular reference to chronic diseases. A wide range of topics are covered, and there will be opportunities for questions and discussion.

Keynote speakers:
- **Professor Lawrence Gostin**, Linda and Timothy O’Neill Professor of Global Health Law, Georgetown University, Washington DC, and Director O’Neill Institute for National and Global Health Law
- **Professor Fiona Stanley AC**, Founding Director, Telethon Institute for Child Health Research; Executive Director, Australian Research Alliance for Children and Youth (ARACY); Professor of Paediatrics and Child Health, University of Western Australia;
- **Professor Stephen Sugarman**, Roger J. Traynor Professor of Law, School of Law, University of California, Berkeley.

Other presenters:
- **Dr Rosemary Stanton OAM**, public health nutritionist and commentator
- **Professor Wayne Hall**, School of Population Health, University of Queensland
- **A/Professor Roger Magnusson**, Faculty of Law, University of Sydney

Convenor:
**A/Professor Roger Magnusson**

This conference is part of the Legal Professional Development Program administered by the Faculty of Law at The University of Sydney. Attendance at this conference will qualify participants for 5 MCLE/CPD units if this particular educational activity is relevant to their immediate or long term needs in relation to their professional development and practice of the law.
Conference Program

8.30-9.15am  Registration: Ground Floor, Faculty of Law

9.15-9.25am  Welcome:  
Professor Gillian Triggs, Dean, Faculty of Law, University of Sydney

Session 1 (9.30-11.10am)
CHAIRPERSON: Professor Stephen Leeder AO

9.30-10.15am  Keynote speaker:  
Professor Lawrence O. Gostin  
*Public Health Regulation: A Systematic Evaluation*

10.15-10.40am  A/Professor Roger Magnusson  
*Product Regulation, Harm Reduction, and Smoking Cessation*

10.40-11.10am  Questions & discussion

11.10-11.30am  Morning Tea

Session 2 (11.30am-1.10pm)
CHAIRPERSON: Professor Lawrence Gostin

11.30am-12.15pm  Keynote speaker:  
Professor Stephen Sugarman  
*Harnessing Private Initiative in the Pursuit of Public Good*

12.15-12.40pm  Dr Rosemary Stanton OAM  
*Who Will Take Responsibility?*

12.40-1.10pm  Questions & discussion

1.10-2.00pm  Lunch

Session 3 (2.00pm-3.45pm)
CHAIRPERSON: Professor Stephen Sugarman

2.00-2.45pm  Keynote speaker:  
Professor Fiona Stanley AC  
*Should Industry Care for Children?*

2.45-3.10pm  Professor Wayne Hall  
*Supping with the Devil: Promoting Tobacco Harm Reduction Using Low Nitrosamine Smokeless Tobacco Products*

3.10-3.40pm  Questions & discussion

3.45pm  Conference close
CHAIRPERSON: Professor Stephen Leeder AO

KEYNOTE PAPER: **Public Health Regulation: A Systematic Evaluation**

**Professor Lawrence O. Gostin**

Linda D. and Timothy J. O'Neill Professor of Global Health Law, Georgetown University Law Center, Washington D.C.; Director, O'Neill Institute for National and Global Law, Georgetown University.

Professor Gostin will set the scene for the conference theme by proposing a systematic evaluation of public health regulation that analyses regulatory justifications, risks to health, the intervention’s effectiveness, economic costs, personal burdens, and the policy’s fairness. This presentation, based on his forthcoming book, *Public Health Law: Power, Duty, Restraint* (U. Calif. Press, 2nd ed. 2008) will conclude with two principles of governance – transparency and precaution – that help inform decision-making processes in public health, including those that relate to the regulation of business and industry.

**Associate Professor Roger Magnusson**, Faculty of Law, University of Sydney:

**Product Regulation, Harm Reduction, and Smoking Cessation**

Product regulation is a gaping hole in tobacco regulation in Australia. At the global level, renewed interest in tobacco product regulation is being driven by the hope of improving product performance in order to reduce harm from tobacco use. "Harm reduction" also refers to regulatory policies designed to encourage less harmful forms of tobacco use, as distinct from encouraging tobacco cessation altogether. Identifying the optimal policy from a public health perspective depends upon guesses and assumptions across a wide and complex range of variables. This paper provides a simple framework for identifying and considering some of the key variables. It also considers the case for a tobacco and nicotine regulation authority to make policy on tobacco harm reduction.
CHAIRPERSON: Professor Lawrence Gostin

KEYNOTE PAPER: Harnessing Private Initiative in the Pursuit of Public Good

Professor Stephen Sugarman
Roger J. Traynor Professor of Law, School of Law, University of California, Berkeley.

° Business can be innovative, nimble, and effective. But if we are to count on business to help promote the public health, we need to align public health objectives and the financial incentives of enterprises, especially those enterprises now contributing to negative public health outcomes. We can try to do this through Performance-Based Regulation (PBR), a form of regulation that does not tell business how to achieve public health gains, but rather simply demands healthier outcomes. In this presentation, Professor Sugarman will make the case for PBR as a regulatory strategy applicable to reducing childhood obesity and smoking prevalence, deaths from alcohol, as well as for seeking to improve health outcomes in a range of other areas.

Dr Rosemary Stanton OAM, Public health nutritionist and consumer health advocate

Who will take responsibility?

° As all ages and both sexes grow fatter, no one wants to take responsibility for this multi-factorial problem. Greater choice of foods bearing health claims is contrary to the new need for sustainable food systems. Putting the onus on the individual to change behaviour is ineffective. The real challenge is to look at the ways each level of government could help change our obesogenic environment to make healthier foods easy and less expensive and physical activity the norm.
Companies driven by profit have a poor record in demonstrating genuine concern for the well-being of children and young people. Corporate social responsibility and voluntary codes of practice have done little to protect children from aggressive marketing, or exposure to harmful and hazardous products and inappropriate foods. This paper will consider ways in which the public health movement has changed industry practices and explore approaches which may be appropriate for the future.

In Sweden, cigarette smoking has declined as snus, a smokeless tobacco product which is low in carcinogenic nitrosamines, has gained in popularity. Epidemiological research on the Swedish experience indicates that there would be major public health gains if a substantial number of current smokers in other countries also switched to these products. However, this form of “tobacco harm reduction” is very controversial in the public health community for many reasons that will be discussed in this paper. These include uncertainties about: the long term effects of these products on health; the likely interest in and uptake of these products among existing smokers; whether increasing the availability of these products will increase the number of new tobacco users and eventually the number of smokers in the population; and how the tobacco industry may use these products to undermine current tobacco control policies.
BIOGRAPHIES OF SPEAKERS AND CHAIRS

LAWRENCE O. GOSTIN, an internationally acclaimed scholar is Associate Dean (Research and Academic Programs and the Linda D. and Timothy J. O’Neill Professor of Global Health Law at the Georgetown University Law Center, where he directs the O’Neill Institute for National and Global Health Law. Dean Gostin is also Professor of Public Health at the Johns Hopkins University and Director of the Centre for Law & the Public’s Health at Johns Hopkins and Georgetown Universities - a Collaborating Center of the World Health Organization and the Centers for Disease Control and Prevention. Dean Gostin is Visiting Professor of Public Health (Faculty of Medical Sciences) and Research Fellow (Centre for Socio-Legal Studies) at Oxford University as well as a Fellow of the Royal Institute of Public Health. He is the Health Law and Ethics Editor and Contributing Writer for the Journal of the American Medical Association.

Dean Gostin has two honorary degrees. In 1994, the Chancellor of the State University of New York conferred an Honorary Doctor of Laws Degree. In 2006, Her Majesty Queen Elizabeth II and the Vice Chancellor awarded Cardiff University’s (Wales) highest honor, an Honorary Fellow. Dean Gostin, an elected lifetime Member of the Institute of Medicine/National Academy of Sciences, serves on the Board on Health Sciences Policy and the Committee on Science, Technology, and Law. He currently chairs the IOM Committee on Health Informational Privacy, and has chaired Committees on genomics and prisoner research. The IOM awarded Dean Gostin the Adam Yarmolinsky Medal for distinguished service to further its mission of science and health. He received the Public Health Law Association’s Distinguished Lifetime Achievement Award “in recognition of a career devoted to using law to improve the public’s health” presented at the CDC. Internationally, Dean Gostin received the Rosemary Delbridge Memorial Award from the National Consumer Council (U.K.) for the person “who has most influenced Parliament and government to act for the welfare of society”. He also received the Key to Tohoko University (Japan) for distinguished contributions to human rights in mental health.

WAYNE HALL is Professor of Public Health Policy in the School of Population Health, University of Queensland. He was formerly Director of the Office of Public Policy and Ethics at the Institute for Molecular Bioscience, UQ (2001-2005) and Director of the National Drug and Alcohol Research Centre at UNSW (1994-2001). He has advised the World Health Organization on: the health effects of cannabis use; the effectiveness of drug substitution treatment; the scientific quality of the Swiss heroin trials; the contribution of illicit drug use to the global burden of disease; and the ethical implications of genetic and neuroscience research on addiction. He is currently researching: the policy and ethical implications of research on the genetics and neurobiology of nicotine dependence.
STEPHEN LEEDER AO is a professor of public health and community medicine at the University of Sydney. He is Director of the Australian Health Policy Institute, which provides independent, non-partisan analysis of major health policy questions confronting Australian and international health systems. The Institute is the Australasian base of the Oxford Health Alliance (OxHA) and will host the 2008 OxHA Summit. Professor Leeder is also co-director of the Menzies Centre for Health Policy, a joint enterprise with The Australian National University. A major theme of the Centre is the control of, and care for people with, serious and continuing illness including chronic obstructive pulmonary disease, chronic heart failure and complicated diabetes. Professor Leeder has a long history of involvement in public health research, educational development and policy. His research interests as a clinical epidemiologist have been mainly asthma and cardiovascular disease. In 2003-04, Professor Leeder worked at Columbia University, New York, in the Earth Institute and Mailman School of Public Health, developing a substantial report, based on research data and scientific interpretation, of the economic consequences of cardiovascular disease (CVD) in developing economies. The Report (Leeder S, Raymond S, Greenberg H, Liu H, Esson K: A Race Against Time: The Challenge of Cardiovascular Disease in Developing Economies. New York, Columbia University; 2004) concentrated upon the macroeconomic consequences of CVD, and especially on the fact that one-third of CVD deaths in many developing countries were occurring among people of working age.

ROGER MAGNUSSON is Associate Professor in the Faculty of Law, University of Sydney. He has Arts/Law degrees from the ANU, and a PhD and a Graduate Diploma in Development from the University of Melbourne. His research interests are in health law and policy, and in public health law and governance. During the mid 1990s, Roger held a Commonwealth-funded AIDS Postdoctoral Research Fellowship and wrote extensively on legal and policy issues associated with HIV/AIDS and infectious diseases. In 2002 he published Angels of Death: Exploring the Euthanasia Underground (Melbourne University Publishing), which reported on the practice of ‘underground’ physician-assisted suicide and euthanasia among health professionals working in HIV/AIDS health care in Australia and San Francisco. Roger is a member of the Transmissible Spongiform Encephalopathies Advisory Committee (TSEAC) of the NHMRC, a member of the Advisory Committee to the Australian Law Reform Committee in its recent review of the Privacy Act 1988 (Cth), and a participant in privacy roundtables convened by the National e-Health Transition Authority. He is currently working on an Australian Research Council-funded project entitled “Lifestyle wars: law’s role in responding to the challenge of non-communicable diseases”. This project focuses on the opportunities for law in responding to chronic and non-communicable diseases, including those caused by tobacco use and obesity.

FIONA STANLEY AC is the Founding Director of the Telethon Institute for Child Health Research; Executive Director of the Australian Research Alliance for Children and Youth; and Professor of Paediatrics and Child Health at the University of Western Australia. Trained in maternal and child health epidemiology and public health, Prof. Stanley has spent her career researching the causes of major childhood illnesses such as birth defects. Her research includes the gathering and analysis of population data for epidemiological and public health research; the causes and prevention of birth defects and major neurological disorders, particularly the cerebral palsies; patterns of maternal and child health in Aboriginal and Caucasian populations; various ways of determining the developmental origins of health and disease; collaborations to link research, policy and practice; and strategies to enhance health and well-being in populations.
Her major contribution has been to establish the Telethon Institute for Child Health Research, a unique multidisciplinary independent research institute focusing on the causes and prevention of major problems affecting children and youth. She sits on the Prime Minister’s Science, Engineering and Innovation Council as well as the Australian Statistics Advisory Council. For her research on behalf of Australia’s children, she was named Australian of the Year in 2003 and in 2006 she was made a UNICEF Australia Ambassador for Early Childhood Development.

**DR ROSEMARY STANTON OAM** has qualifications in biochemistry, pharmaceutical chemistry, nutrition & dietetics and administration. She was awarded a doctorate for her many scientific publications, and an Order of Australia Medal for her contributions to public health through nutrition. Currently a Visiting Fellow in the Faculty of Medicine at the University of New South Wales, Rosemary is a member of many advisory committees and professional associations. As well as many scientific papers, she has written 32 books on food and nutrition and also writes for many magazines and newspapers. She has been recognised for over 40 years as a source of independent, reliable and practical nutrition information.

**STEPHEN SUGARMAN** is the Roger J. Traynor Professor of Law at the University of California, Berkeley, where he teaches Torts, Sports and the Law, and courses in the Social Justice curriculum. He is a Senior Program Consultant to the Robert Wood Johnson Foundation for two public health programs, and Chair of the legal team for two public health programs of the Public Health Institute in Oakland, California (the Technical Assistance Legal Center, which works on tobacco, and Public Health Law and Policy, which works on childhood obesity). His books include two with Robert Rabin on the cigarette industry: Regulating Tobacco (Oxford 2001) and Smoking Policy (Oxford 1993). Some of his other books are: Torts Stories (with Rabin, Foundation Press 2003); All Our Families (with Mason and Skolnick, Oxford 2nd ed. 2002); School Choice and Social Controversy (with Kemerer, Brookings 2000); Divorce Reform at the Crossroads (with Kay, Yale 1990); Doing Away with Personal Injury Law (Greenwood 1989); Education by Choice (with Coons, California 1978); and Private Wealth and Public Education (with Coons and Clune, Harvard 1970). Professor Sugarman has been a Visiting Professor at Columbia University School of Law 1997-98 and 2007, Guest Professor, Kyoto University Faculty of Law, Kyoto, Japan 1998, Visiting Fellow, Kobe University School of Law, Kobe, Japan 1998, Visiting Fellow, European University Institute, Florence, Italy 1993, Visiting Fellow, University College, Faculty of Law, University of London, London, England 1986 and 1988, Visiting Professor, University of Paris, France 1983, and Academic Visitor, Law Faculty, London School of Economics and the Institute for United States Studies, University of London, London, England, 1978-1979. He served as Associate Dean of the UC Berkeley School of Law 1980—1982 and 2004-2007.
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