



THE UNIVERSITY OF
SYDNEY

Sydney Health Law,
Sydney Law School



Australian Centre for Health
Law Research,
QUT School of Law

Health Law Masterclass



6 October 2017

**Sydney Law School
Common Room, level 4
University of Sydney, Camperdown Campus**

Registration (inc GST)

Full fee: \$180

University of Sydney Student: \$80

[Click here to register](#)

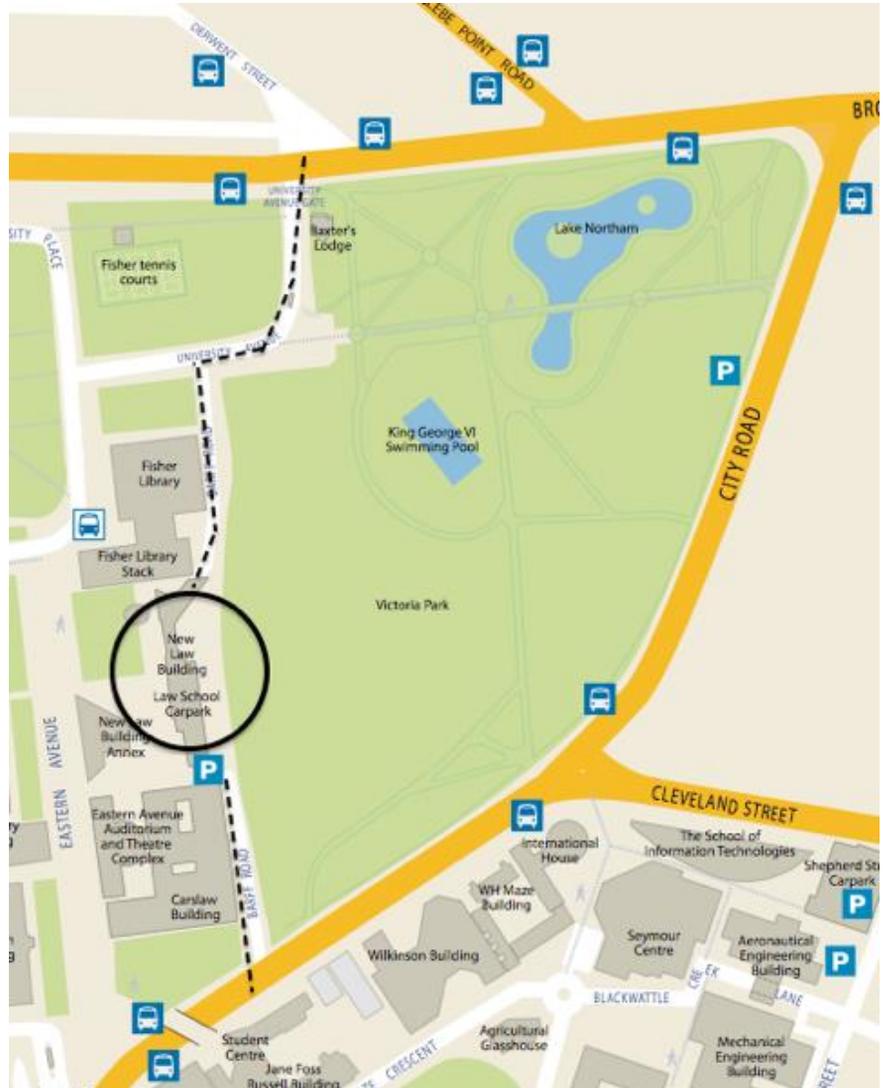
This masterclass is co-hosted by the [Sydney Health Law at Sydney Law School](#) and the [Australian Centre for Health Law Research, QUT School of Law](#)

CPD Points = 6



LOCATION

Common Room (Level 4),
New Law Building (F10),
Eastern Avenue, University
of Sydney





Time	Session
8.45-9am	Registration, Coffee
9 – 9.10am	Welcome Professor Cameron Stewart and Professor Roger Magnusson, joint Directors, Sydney Health Law, Sydney Law School
9.10 – 10.35am Short presentations (15 min)	SESSION 1: DEVELOPMENTS IN PROFESSIONAL LIABILITY Chair: Alison Choy Flannigan , Partner, Holman Webb Panel: <i>Vicarious and “personal” liability of hospitals and medical services employers: liability for the negligent or criminal acts of employees and others.</i> Professor Barbara McDonald, Sydney Law School <i>Retained surgical items: an empirical study of the case law</i> A/Professor Tina Cockburn, QUT School of Law <i>Smartphone use by dermatologists: practices, risks and legal issues</i> Dr Lisa Abbott, Skin & Cancer Foundation Australia. <i>Innovative treatments, negligence and battery</i> Professor Cameron Stewart, Sydney Law School
10.35 – 10.50am	Morning Tea
10.50am – 11.55am Short presentation (10 min); panel discussion	SESSION 2: CHILDREN, REPRODUCTION AND THE BEGINNING OF LIFE Chair: Dr Malcolm Smith . QUT School of Law Panel: <i>Claims for harms brought about by the circumstances of one’s conception</i> Dr Andrew McGee, QUT School of Law <i>Children as allogenic stem cell donors: ethically challenging and legally complex</i> Dr Shih-Ning Then, QUT School of Law <i>Tort liability for natural birth</i> Dr Sascha Callahan, Sydney Law School <i>Open disclosure in adverse events in fertility practice</i> A/Professor Tina Cockburn, QUT School of Law <i>Tort liability for loss of genetic affinity</i> Professor Roger Magnusson, Sydney Law School



Time	Session
11.55am – 12.25pm	SESSION 3: KEYNOTE PRESENTATION <i>Causation and consent: tort liability for acceptable risks and unnecessary treatment</i> Mr Dominic Villa, Barrister-at-law, New Chambers
12.25 – 1.15pm	Lunch
1.15 – 2.10pm	SESSION 4: CONSENT, END OF LIFE AND ASSISTED DYING: AUSTRALIAN DEVELOPMENTS Chair: Professor Cameron Stewart, Sydney Law School <i>Empirical research into end-of-life law and practice</i> Professor Lindy Willmott, QUT School of Law <i>Developments in assisted dying in Australia</i> Professor Ben White, QUT School of Law
2.10 – 2.30pm	Afternoon Tea
2.30pm – 4pm	SESSION 5: CONTROVERSIES, HOT TOPICS, PANEL Q & A This panel will begin by each member of the panel giving a 3 minute presentation on a controversy or development in health law not previously discussed. Followed by Q & A with audience. Panel Dr Sascha Callahan, Sydney Law School A/Professor Tina Cockburn, QUT Alison Choy Flannigan, Holman Webb, Solicitors Professor Barbara McDonald, Sydney Dr Andrew McGee, QUT Professor Roger Magnusson, Sydney Law School Dr Malcolm Smith, QUT Professor Cameron Stewart, Sydney Law School Dr Shin-Ning Then, QUT, Sydney Law School Mr Dominic Villa, New Chambers Professor Lindy Willmott, QUT Professor Ben White, QUT



PRESENTERS



Dr Lisa Abbott, Dermatology Research Fellow, Skin & Cancer Foundation Australia. Lisa is a doctor and barrister and holds degrees in Medicine, Law and Government & Public Administration. She was admitted to the bar in 2005, practising in professional negligence and disciplinary proceedings prior to commencing her medical studies in 2009. Lisa has maintained a keen interest in the intersection between medicine, law and technology. She is currently a Research Fellow at the Skin & Cancer Foundation Australia and is undertaking a Master of Laws by research on the legal implications of smartphone use in clinical dermatology.



Dr Sascha Callahan, Sydney Law School. Sascha is a lawyer and lecturer in health law and ethics at the University of Sydney Law School. She has published widely in the area of health care decision-making, mental health and cognitive impairment. She also has a research interest in law and reproduction and medical treatment in pregnancy. Sascha is the lawyer member of the Ethics of Clinical Practice Committee for Sydney Local Health District, and a member of a number of research collaboration networks including the Sydney Health Policy Network and the Network for Bodies Organs and Tissues. She is currently a lead researcher in the Sydney Neuroscience Network on intersections between neuroscience, law and ethics. Sascha teaches "NeuroLaw: Mind, Brain, Law and Ethics" in the Master of Health Law program.



Alison Choy Flanningan, Partner, Holman Webb. Alison has over 25 years of corporate, commercial and regulatory legal experience, specialising in advising the health, aged care and life sciences industries. In every year from 2008 to date, Alison was been nominated by her peers in Best Lawyers International: Australia, and in the Australian Financial Review as one of Australia's 'best lawyers' in the areas of health and aged care. Alison has advised hospital operators and aged care Approved Providers, disability service providers, and clinicians, particularly in the areas of corporate, commercial and regulatory advice, clinical trial agreements and research governance, clinical risk and adverse events, investigations, medico-legal, coronial inquests and privacy. She is the preferred legal advisor to NSW Health on clinical trial agreements and research governance.



A/Professor Tina Cockburn, QUT. Tina is an Associate Professor in Law, QUT, and a member of the Australian Centre for Health Law Research. Her research considers the legal rights and remedies of vulnerable members of society, including issues affecting elder persons and incapacitated persons. In the area of health law, her research focuses on patient safety law, injury compensation and medico-legal issues arising out of adverse medical outcomes and the communication of information, including patient consent and post treatment open disclosure. Tina's publications have addressed current issues in medical litigation and injury compensation (including negligence, trespass and intentional torts) and the regulatory framework for the health, performance and conduct of healthcare practitioners. Her current research focuses on the relationship between liability and medical innovation; the communication of information to women about the health implications of mammographic density; and legal, ethical and policy issues associated with retained surgical instruments. She is a member of the Queensland Law Society Health and Disability Law Committee.



Professor Roger Magnusson, Sydney Law School. Roger is Professor of Health Law and Governance at the University of Sydney Law School, and coordinator of the Master of Health Law program. His research interests are in health law, and policy, including public health law and governance, and health development. He began his academic career writing 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 Press; Yale University Press) which reported on the practice of "underground" physician-assisted suicide and euthanasia among health professionals working in HIV/AIDS health care in Australia and in San Francisco. More recently he was lead author of *Advancing the right to health: the vital role of law*, published in 2017 by the World Health Organisation. Roger is a member of the Public Health Scientific & Technical Expert Group which advises the Public Health Division of the Secretariat of the Pacific Community (SPC).



Professor Barbara McDonald, Sydney Law School. Barbara is a Professor at the University of Sydney Law School, with a primary interest in tort law, including its operation in the medical context, and other private law obligations and remedies. She is a contributing author to *Fleming's Law of Torts*, shortly to commence work on the 11th edition, and is a co-editor of *Cases on Torts*, now in its 6th edition. She has written extensively on tort reform and the developing law of privacy in Australia. During 2013-2014, she served as a Commissioner of the Australian Law Reform Commission where she led the Inquiry into *Serious Invasions of Privacy in the Digital Era*.



Dr Andrew McGee, QUT. Andrew's research is interdisciplinary, spanning law, health, ethics and philosophy. His main areas of interest are organ donation, dementia, withholding and withdrawing life prolonging measures, euthanasia, palliative care, the ethics of stem cell research, and abortion. Andrew has published in leading international medical law, philosophy, and medical ethics journals including *Legal Studies*, *Bioethics*, *Metaphilosophy* and the *Journal of Medicine and Philosophy*. He collaborates with colleagues in his field from Harvard University, Oxford University, and the National Institutes of Health. He is currently completing a book with Dr Charles Foster from Oxford University about the use of intuitions in moral reasoning



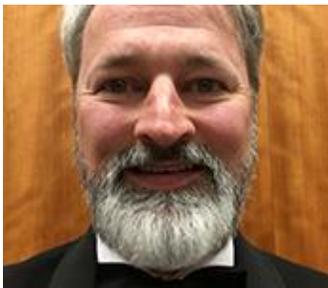
Dr Malcolm Smith, QUT. Andrew is co-leader of the Children's Health and Beginning of Life research program in the Australian Centre for Health Law Research. Malcolm's research focuses on the law relating to children and medical treatment and the legal and ethical issues associated with assisted reproductive technology (ART), particularly embryo selection technologies. Malcolm's current research project examines the regulation of cross-gender hormone therapy for the treatment of childhood gender dysphoria. Malcolm has published extensively in the area of children's health and ART. His doctoral thesis examined the regulation of assisted reproductive technologies in Australia and the UK and considered whether families wishing to utilise in vitro fertilisation and pre-implantation tissue-typing for the creation of 'saviour siblings' should be free to do so. This research is explored further in his book *Saviour Siblings and the Regulation of Assisted Reproductive Technology: Harm, Ethics and Law* (Ashgate, 2015).



Professor Cameron Stewart, Sydney Law School. Cameron is a member of Sydney Health Law and an associate of Sydney Health Ethics, Sydney Medical School. His previous appointment was at Macquarie Law School, where he spent 10 years, the last of which as Dean. He was the Director of the Centre for Health Governance, Law & Ethics at Sydney Law School for 2011-2015, was the Acting president of the Australian and New Zealand Institute of Health Law and Ethics in 2008-2010 and was the Vice-President of the Australasian Association of Bioethics and Health Law from 2010-2013. Cameron is also the co-editor of the [Ethics and Health Law news service](#). Amongst other units, Cameron teaches “Death Law” in the Master of Health Law program at Sydney Law School. Cameron is co-author of *Ethics and law for the health professions* (4th ed Federation Press)



Dr Shih-Ning Then, QUT. Shih-Ning is Senior Lecturer in the Faculty of Law, QUT, and member of the Australian Centre for Health Law Research. Her research focuses on health law and ethics including guardianship and supported decision-making, children in a health care context and transplantation of tissues and organs. Shih-Ning is a chief investigator on an Australian Research Council Linkage project examining effective decision making support for people with cognitive disabilities. She is a member of the NHMRC Organ and Tissue Working Committee and acted as a consultant to the Victorian Law Reform Commission on their guardianship review. She is the co-author of *Ethics, Law and Health Care: a Guide for Nurses and Midwives* (2014, Palgrave Macmillan) with Dr Fiona McDonald.



Mr Dominic Villa graduated with an LLB and a BA in Political Science from UNSW in 1995. He completed a Master of Health Law at Sydney Law School in 2007. Dominic was a practising solicitor and senior associate at Minter Ellison before going to the bar in 2002, where he practices in a variety of commercial and common law areas including banking and finance law, personal injury, professional negligence, and sports law. Dominic is the author of the highly regarded *Annotated Civil Liability Act NSW* (Thomson Reuters, 2nd ed., 2013; 3rd edition forthcoming October 2017). He is a member of the Human Research Ethics Committee for the South Eastern Sydney Local Health District.



Professor Ben White, QUT. Ben is a Director of the Australian Centre for Health Law Research, and Professor of Law, Faculty of Law, QUT. He has published widely in the area of health law, with a particular focus on end-of-life decision-making, advance care planning and guardianship law. A Rhodes Scholar, Ben was appointed as the full-time Commissioner of the Queensland Law Reform Commission from 2005–2007 where he had carriage of the Guardianship Review on behalf of the Commission. Since 2010 Ben has been a Chief Investigator on four ARC-funded interdisciplinary projects examining various aspects of end-of-life decision-making and advance planning. He is also an Associate Investigator on two NHMRC Centres of Research Excellence. Ben co-edits *Health Law in Australia* (3rd ed, Thomson, forthcoming 2018) and co-authors the website End of Life Law in Australia. Ben is a Committee Member of the Australasian Association of Bioethics and Health Law, and is on the Editorial Board of the *Journal of Law and Medicine*.



Professor Lindy Willmott, QUT. Lindy is a Director of the Australian Centre for Health Law Research and publishes extensively in the health law field, including as a co-editor of a leading text in the field, *Health Law in Australia* (3rd ed, Thomson, forthcoming 2017). She specialises in the law at end of life, including withholding and withdrawing life-sustaining treatment, futile treatment, euthanasia and assisted dying and palliative care. She has been a Chief Investigator on a number of Australian Research Council and NHMRC research projects. Between 2002 and 2007 she was a part-time member of the Queensland Civil and Administrative Tribunal. Lindy is a Board Member of Palliative Care Australia, an Associate Editor of the *Journal of Medical Ethics*, and is on the Editorial Board of the *Journal of Law and Medicine*. She also co-authors the website *End of Life Law in Australia*.