

WORLD ASSOCIATION FOR MEDICAL LAW

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Editorial for March 2023 Newsletter



Hon Richard S Wilbur

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NEW! WAML has awakened from its COVID enforced hiatus! This edition of the WAML Newsletter is symbolic of the changes in WAML. The Newsletter itself has a new format. Also, for the first time, its articles will be presented in multiple languages so that more of our readers may review it in their native language when that is not English. Further, its articles will be sent to academic centers to arouse the interest of some faculty members who are not yet involved with WAML activities. WAML as an organization has new leadership. A new President, **Executive Committee and Board**

of Governors. A new roster of Committees, one of which is tasked with presenting a new set of Bylaws for approval. After the pandemic pause, WAML is coming back with renewed vigor. Please enjoy this Newsletter guest edited by the newly elected Secretary General Jonathan Davies.

Creating a Public Health Law & Ethics Forum Discussion in Israel



Adv. Jonathan DaviesSecretary General for WAML

As the guest editor of this newsletter edition, it is my honor to present to our readers a new approach of a different form of discussion. We in Israel have set up a multidisciplinary Forum to

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discuss public health issues that concern international problems in light of a complex modern world of information where it is difficult, almost impossible, to differentiate between the flow of professional and nonprofessional - sometimes-biased - information that social media and public domains exposes us.

The WHO defined Public Health as "the art and science of preventing disease, prolonging life and promoting health through the organized efforts of society" and focuses on the entire spectrum of health and wellbeing, not only the eradication of particular diseases. Accordingly, little is known about how Covid emerged as an issue that raises questions of Bioethical, Medicolegal and Public Health, as nations and organizations do not always act in transparency, which is an important tool in reducing the pandemic.

Covid 19 taught the world an important lesson that a sudden leak in a local laboratory in Wuhan, China could have caused a worldwide pandemic killing millions of people elsewhere, as the Wall Street Journal reported on Feb. 26, 2023 according to classified intelligence report recently provided to the White House. Assuming this information is true or even not – scientists will always seek to investigate how the virus emerged. This question concerns the public health scientist and other multidisciplinary professionals all over the world, trying to avoid the next mistake that will cause a disaster.

As the President of the Society for Medicine and Law, I collaborated with Prof. Hagai Levine head of the Public Health doctors union to establish a joint forum of Public Health Law and Ethics. The idea was to bring together members and affiliates from other relevant disciplines, such as medicine, law, ethics, environmental protection, sociology, demography, health professionals, religion, philosophy, economics, and others who are interested to join, in order to discuss different issues on the agenda.

The aim of the forum is to create fertile discussions from different points of view that present different approaches within the disciplines in order to create a modern Public Health Law & Ethics approach, and influence decision-makers through position papers presented by the working groups through the forum.

The discussion that brings together different points of view and approaches is important especially in Public health issues as it has different ramifications as we learnt during Covid. i.e. Changing many of our behaviors and habits post Covid (both positively and negatively), so that each society can adapt in a different way that is best for them. These discussions are applicable in every society but especially in WAML and can bring to the table experience and evidence based knowledge that can fertilize our collaboration.

In this issue of the newsletter, I will present five articles from the table of the leading members of the *Public Health Law and Ethics Forum in Israel* that present different approaches of Public Health Law Issues that concern today's world.

Mayer Brezis, MD MPH, Professor of Medicine (Emeritus) former Director of the Center for Clinical Quality & Safety in Hadassah Medical Center, Jerusalem, Israel, writes about Medical errors - as a major public health threat and calls for an urgent need for a paradigm shift towards a culture of transparency away from the litigious experience currently prevalent in courtrooms.

In every adverse medical event or disease, professionals seek to understand the cause and effect of the problem. Professor Shai Linn, from the School of Public Health, University of Haifa, and Zefat Academic College, Israel and Prof. Tamar Gidron from Law School Zefat Academic College and Head of Zefat Center for Bioethics Research collaborated in an attempt to find the multidisciplinary golden thread to define Causation. In their article "Cause in fact after exposure to known vs. unknown risk factors: proof of causation and its effect on environmental and public health tort litigations" they conclude that the "causation" factor in tort law is becoming more and more confusing and unclear. Science is swiftly progressing while the law lags behind and renders unjust results. This is why "no fault" scheme proponents are getting growing attention when tort liability in multiple-potential -causes cases is in question, producing lengthy and costly litigations. Public policy considerations might lead legislators to reconsider favorably a change of tort law's working toolkit, at least in cases of dangerous products, dangerous environment, toxic torts and additional harm producing situations, which affect public health and society health interests".

Dr. Carmel Shalev, Adjunct Professor, Faculty of Law, Tel Aviv University, Israel, writes about the women rights post Dobbs case with Reflection on Dobbs and

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Women's Right to Health in Israel Today. In a recent article, I wrote that the Dobbs case shocked and divided the American society. The Dobbs ruling contradicts other constitutional rights – such as the right to Privacy and Autonomy – and ignores the technological developments since Roe v. Wade by regressing Women rights, for example to use contraceptives before pregnancy and other chemical medications to terminate unwanted pregnancy, 50 years backwards.

The last two articles refer to the influence of environmental issues on Public Health. **Prof. Ilana Belmaker** Associate Professor of Public Health (Retired), Ben Gurion University of the Negev, Beersheva, Israel presents a unique way to Protect Public Health from Air Pollution and Chemical Industrial Complex without Recourse to Tort Litigation.

Dr. Hadas Magen-Molho, LLB, MBA, PhD, Fellow and academic committee member, Center for Sustainability, Hebrew University of Jerusalem, Israel; Dr. Maya Negev, Head, Health Systems Policy and Administration Program, School of Public Health, University of Haifa, Israel and Maya Sadeh, PhD Candidate, Department of Epidemiology and Preventive Medicine, School of Public Health, Sackler School of Medicine, Tel Aviv University, Israel

Collaborated in a joint project write about "Legal tools for reducing the threat of drinking water contamination in Israel: the case of PFAS"

PFAS is a group of industrial chemicals, which are potential drinking water pollutant worldwide substances. This group includes thousands of man-made chemicals

(also known as "The Forever Chemicals"), which are very broadly used in consumption products and industrial applications, due to their useful surface-active properties, including water and oil repellency, and surface resistance. Israel's complex regulatory landscape for environmental chemicals leaves considerable gaps. In the case of PFAS, this gap has led to a failure to prevent ongoing environmental contamination with PFAS. The NGO Israel Union for Environmental Defense recently submitted a petition to the Supreme Court calling for regulatory action to prevent ongoing contamination of drinking water and public health impact. The outcome of this petition can impact chemicals regulations and drinking water quality in Israel and elsewhere in the World.

I hope this newsletter will be thought provoking and offer some new insights.

Medical Errors - A Major Public Health Threat



Mayer Brezis

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The only mistake in life is the lesson not learned (Albert Einstein)

A recent Day of Remembrance honored killed astronauts, 20 years after the Columbia shuttle disaster and 37 years after the Challenger accident - both related to a poor safety culture. NASA leaders now emphasize the importance of learning from mistakes and having an inclusive culture, listening to everyone in the team. NASA executive R. Cabana said, "When we make our decisions, they must be based on the best possible data. We can only do that if everyone has a voice." This is the teamwork culture in U.S. nuclear submarines to encourage the expression of dissenting opinions: if everyone agrees at a staff meeting, the commander must explain to his superiors why. This culture has been associated with a remarkable safety record: not a single accident despite a mileage equivalent to 265 flights to the moon. High reliability organizations do not tolerate intimidating behavior that suppresses the reporting of safety concerns and perpetuates the existence of unsafe conditions.

Where does healthcare stand in terms of safety?

Medical errors are a leading cause of morbidity and mortality, after heart disease and cancer. Although the alarming magnitude of the problem has been known for decades, little progress has been made in reducing healthcare errors and it appears, as discussed in a recent *New England Journal of Medicine* editorial, that systemic change is needed.

The current judicial solution, which provides a path to compensation for injured patients and their families, may ironically itself be a major impediment to progress. "Deny and defend" is still a

common response led by lawyers of healthcare organizations following a blunder - to protect against legal liability, denying an error occurred and defending actions of providers involved. To expedite the resolution of disputes, parties often compromise out of court by signing an agreement that usually absolves the provider from taking responsibility for what happened. This approach has been criticized for silencing voices that question the quality of practice and hindering the opportunity to learn from mistakes and improve patient safety.

A more open approach to medical errors addresses root causes and asks teams to think about safety to prevent recurrence. The response is to admit the error, apologize to the patient and family, ask all team members how to improve practice, and seek compensation and support for anyone affected by the error. This approach, called "disclose and apologize," has been shown to lead to better outcomes for patients, providers, liability insurers, and healthcare organizations.

Research shows that openness after a medical error saves money. Several studies in the U.S. have shown that litigation and related costs decrease by as much as 50% after a disclosure policy is implemented. The fear that disclosure following a mistake will trigger lawsuits has not substantiated. Transparency helps calm the frustration and anger of families, allows trust to be restored, and reduces the intent to litigate. Originally, transparency policies were guided by the recognition that it is ethically and professionally correct to tell the truth. A culture of openness appears to promote quality and safety and reduce defensive medicine, such as excessive testing.

A study conducted in the United Kingdom showed that a culture of transparency was associated with lower hospital mortality.

Despite empirical evidence and recommendations from leading experts to promote openness, change has been slow. Research shows that apology laws, under which admissions of wrongdoing cannot be used in court, are not sufficient for improvement. Shifting the paradigm toward a disclosure culture - away from the adversarial pattern currently prevalent in court - is a challenging task that requires leadership, training and support. It is not easy for a doctor or nurse to admit a mistake that may already be on its way to a negligence lawsuit, while an insurance lawyer advocates "deny and defend". Communicationand-resolution programs that promote accountability, transparency, and learning after adverse events, as discussed here, are increasingly being offered by academic organizations and national agencies. These programs help revitalize the medical profession by honoring principles of honesty with patients and quality improvement. Implementing an organizational culture of transparency requires training, discussions at team meetings, building 24/7 support, and monitoring progress.

In Israel, some improvements can be noted. Senior hospital executives and department chiefs agree with the principle of transparency after a medical mistake. Simulation-based training allow physicians and nurses to learn how to handle sensitive encounters with patients and families after an error - an experience depicted in a documentary filmed at Israel's National Center for Medical Simulation. A national initiative by

Israel's Ministry of Health brought victims of an error together with teams and leaders in workshops designed to foster partnership: results show that patients and physicians can talk openly about a medical error outside of conflicts in court. These are instructive and promising examples of the field's genuine desire to promote disclosure, as one chief of surgery noted, "Telling the truth is the best defense."

Medical errors, a major public health challenge, exact too high a price with long-term consequences for families and providers on human, emotional, social, and economic levels. A paradigm shift toward a culture of transparency in health care requires political will, leadership, education, training, wisdom, resources, and perseverance.

Harvard University President recommends that students read *Being Wrong*, a book which describes mistakes in various disciplines, concluding that error is the foundation of wisdom - as discussed in a <u>TED lecture</u>. Far from being a sign of intellectual weakness or just bad luck, making mistakes and learning from them is essential to human cognition and growth.

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Cause in Fact After
Exposure to Known vs.
Unknown Risk Factors:
Proof of Causation and its
Effect on Environmental
and Public Health Tort
Litigations



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Establishing causation between risk and damage is attainable by one of the following methods, dependent upon the circumstances of the case: First, linking a specific damage (e.g. cancer) to an established (definite) risk factor (e.g., carcinogen); In cases of a known risk factors, e.g., definite carcinogens declared by the International Agency of Research on Cancer, (IARC), the linkage is presumed, factual connection is implied retrospectively and no further proof of causation is needed. Furthermore, such cases call for public health preventative actions and full compensation payments. The report on the wellknown serious water pollution in Flint, Michigan (Savitz 2016) may serve as a good example.

Second, causation may be established by using probability balance that link a specific harm to exposure to prospective potential – as yet unrecognized-risk factor.

The **first** evidential method is applied in tort litigations. The latter is commonly used in scientific studies.

Rothman's well-known model of causality-the sufficient-component cause model- describes a minimal set of exposures that work together to cause disease. When the set is complete, the disease is, by definition, inevitable. The model explains causation as a multiple causal risk factor that interacts with other risk factors to create a sufficient cause. In the legal arena, Richard Wright and many others describe a similar NESS model (a necessary element of a sufficient set).

The sufficient cause model better explains the biological ('actual', 'factual') causation than the traditional *sine qua non* ('but for') test that is usually applied in tort cases (Tedesky 1969). Its effectiveness is due to the fact that human diseases usually occur

in complex biological organisms where multiple factors act together to create a health outcome. Simply put, no disease occurs because of a single biological process. Thus, the sufficient cause model is a deterministic *post factum* (i.e. retrospective) model (Olsen 2003). It is not a probabilistic model. The causal connection of an established risk factor in a sick individual is binary (qualitative) i.e., yes (if exposure occurred) or no (if occurrence can't be proven). Any exposure to a *known* or probable carcinogen should be acknowledged as a factual cause to a subsequent cancer (Parascandola and Weed 2001). Exposure to cigarettes' smoke or high cholesterol attest to a causal connection between such exposure, and the occurrence of cardio vascular disease (CVD). Such causal connection between past exposure to known risk factors and a patient's harm is applicable as sufficient evidence in all other similar cases. No additional specific evidence is required.

As to the **second** type of circumstances, where a different method is needed due to the fact that no linkage between a known risk factor and the harm can be established, the onus of proof is more complicated. Here, the effect of a suspected new substance is explored through evaluation of exposed and unexposed populations. These evaluations can show the probability (risk) of subsequent exposure to population's health, and may support (but not assure) a potential causal connection between exposure and disease in given individuals. Hill's guidelines (1965) suggest that the following factors should be considered in determining new causal risk factors: strength (of association), consistency

(across studied populations), specificity (of cause and effect), temporality (cause before effect), biological dose-response, plausibility, coherence (with other evidence), and experimental evidence (intervention changes the outcome), and analogy (with other known causes of a disease).

Applying all the above on tort litigation calls for additional refinements.

The case of Krishov v.Kibutz Ma'Ayan Zvi (2005) supplies a good starting point. The defendant owned a car-services garage. The garage's roof was made of asbestos. Six out of the fourteen garage employees passed away due to (different types of) cancer. The plaintiff, an employee of the defendant, was diagnosed with cancer. He claimed damages from the garage owner- the Kibutz- and from the state for failing to oversee the use of the dangerous asbestos by the Kibutz. The plaintiff was unable to supply direct evidence that linked his cancer with the dangerous asbestos roof and/or the circumstances of his employment. He thus argued that the court should take into consideration the number of sick employees at the defendant's garage as compared to statistical cancer cases in the overall Israeli population and the known harmful nature of the asbestos, and conclude that causation was in fact established (an inductive test).

The court (Dorner &Levi) accepted the plaintiff's claim and applied an inductive test, thus ascertaining a factual causal connection between the multiple known risks that were related to Krishov's work. The Court refrained from requiring that causation be based on strict scientific tests (Hill's guidelines).

The case of the Kishon River, the most polluted waterway in Israel, is yet another example, alas quite controversial.

The plaintiffs were divers and fishermen who developed cancer following prolonged exposure to known carcinogens while working in and around the Kishon River.

The main issue before both the District and the Supreme Court was causation. As in Krishov, the plaintiffs failed to convince the courts that the harm (multiple types of cancer) suffered by the plaintiffs was indeed caused by the various carcinogens with which they were in contact while diving in the Kishon.

The issue of causation in cases of multiple causes is still pending in Israeli case law and the Supreme Court had not yet adopted a clear test by which complicated factual circumstances may be construed (Rivlin in Eden Malul case). Until then the problematic "causation" factor in tort law is becoming more and more confusing and unclear. Science is swiftly progressing while the law legs behind and renders unjust results. This is why "no fault" scheme proponents are getting a growing attention when tort liability in multiple-potential -causes cases is in question, producing lengthy and costly litigations. Public policy considerations might lead legislators to reconsider favorably a change of tort law's working toolkit, at least in cases of dangerous products, dangerous environment, toxic torts and additional harm producing situations which affect public health and society health interests

A Reflection on Dobbs and Women's Right to Health in Israel Today



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In a recent essay on the Politics of Reproduction – A View from Israel on the Dobbs Decision, I compared the law and culture of reproduction in the USA and Israel, and suggested that abortion here was of relatively minor concern among the many other public policy issues surrounding women's reproductive health, in comparison to the prochoice/pro-life divide there. Since then, radical and intense political changes are sweeping the country and shaking the foundations of its democracy, fed by a nationalist, racist, misogynist and homophobic ideology reminiscent of the ultraright fundamentalism which led to the appointment of the justices on the Dobbs court, but with an added touch of local religion-and-state politics. These changes are likely to affect Israeli women's rights to equality and freedom in many ways, as well as their right to health.

In the Dobbs case, the US Supreme Court overruled the landmark precedent of Roe v. Wade on women's constitutional right to abortion, by virtue of which the health and life of the pregnant woman must always come before any interest in the life of the fetus, even post-viability. The Dobbs court, however, argued that the constitution did not refer to abortion and declared that no right to abortion at any stage of pregnancy is implicitly protected by any constitutional provision. It also ruled that late-term abortion might be limited to cases of actual threat to the woman's life, rather than her general health. Protecting the life of the unborn was more important, and states might even ban abortion from the moment of conception in such interest.

Overnight restrictive abortion laws in nine states came into effect. One month later a ten-year-old girl, a child who lived in a state where abortion was now illegal and who was pregnant from rape by a grown man, had to cross the border to a neighboring state to gain access to the medical care she needed. In addition, the health of women with chronic illnesses and disabilities at high risk for pregnancy complications that do not amount to life threatening emergencies might be compromised. What is more. there is concern about a chilling effect on the medical care women receive in cases of incomplete miscarriage of a wanted pregnancy, which are treated with the same procedures used for abortion.

In Israel, abortion is available and accessible in both law and practice. Termination of pregnancy is legal when approved by a committee of two doctors and a social worker. Causes for legal abortion include the woman's health and wellbeing, risk of fetal anomalies, age (under 17 and over 40), and being unmarried, or the victim of rape or incest. In 2020 the committees

approved 99.6% of the applications they received. Moreover, shortly after the Dobbs decision, the ministry of health announced a new policy which allowed access to the day-after-pill with public funding and without need for committee approval.

A major reason for the acceptance of abortion is the view of Jewish law that the woman's health is of the utmost concern and her life more valuable than the fetus'. Even when she is in labor, her life should be saved at its expense. The Mishnah says graphically: "If a woman is in trouble giving birth, they cut up the child in her womb and remove it limb by limb, because her life comes before its life." In contrast to the Catholic stance that life begins at the moment of conception (or fertilization), according to the Talmud life begins at forty days and until then the fetus is no more than "water in the world".

Israel also has a post-Holocaust ethos of "be fruitful and multiply" in accord with the biblical commandment, and it is a world leader in repro-genetic medicine. Rates of consumption of medically assisted reproduction (MAR) are on a constant climb. National health insurance provides public funding for almost unlimited cycles of in vitro fertilization, a nontrivial medical intervention with associated risks, and success rates steady at around only 1:5 treatment cycles resulting in live births. What is more, in most cases nowadays, women do not undergo these interventions for treatment of their own infertility, but for an infertile partner or preimplantation genetic diagnosis, or as an egg donor or surrogate mother.

Israel is now going through an intense political crisis. First is the new government's putsch to cancel the independence of its professional iudiciary and to introduce instead a system of political appointment of judges a la Trump, Orban or Duda. Another aim is to curtail judicial review of the constitutionality of laws, as well as the reasonableness of administrative directives or decisions. This might affect the setting of priorities for the public funding of health services, or the right of an individual to access and receive health care such as that of LGBT couples to MAR.

The coalition is also promoting legislation that would restrict women's freedom and equality. extend the jurisdiction of religious rabbinical courts beyond marriage and divorce to civil disputes. and allow gender segregation and exclusion in public spaces, employment and private businesses, while the new government policy is to not approve joining the Istanbul Convention on combating violence against women and domestic violence. All these will affect women's physical and emotional health and wellbeing. Women's reproductive health might also be infringed. As Jonathan Davies commented in his article criticising the Dobbs approach, a 2013 legislative bill to introduce a standard of fetal viability and restrict abortion from 22 weeks might be revived. I hate to think that appointments to abortion approval committees could be political rather than professional.

The most disadvantaged and vulnerable women, the least educated, those living in poverty, subject to violence or the patriarchal authority of rabbis, or belonging to the Arab minority are most likely

to suffer first. Women have a right to health and wellbeing, a right to reproductive choice, freedom, and dignity. We need a policy that aims primarily to protect these rights in the spirit of the Jewish tradition that a woman's life is of value in itself and greater than that of her capacity to bring a child into the world.

A Unique Way to Protect
Public Health from Air
Pollution from a Chemical
Industrial Complex without
Recourse to Tort Litigation:
A Case Example from Israel



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Fifty years ago in Israel, toxic wastes from chemical plants in the southern desert were poured directly onto shallow ponds lined by plastic sheets placed over the loess soil which characterizes this desert. Volatile components of the chemical mix in the ponds were left to evaporate. Liquid waste from all the factories flowed into common pools.

The site of this concentration of chemical plants was located 20 kilometers south of the city of Beersheva, the capital city of southern Israel. The desert surrounding the area is populated by semi-nomadic Bedouin tribes, members of kibbutzim (communal settlements), army bases, and the workers of the chemical industries.

Residents of the area complained bitterly of odor pollution. Effects on health of residents of the area were unknown, but the Bedouin living near the site complained of birth defects, cancer, asthma and other respiratory illnesses.

Until the creation of the Ministry of Environmental Protection (MoEP) in 1988, there was little supervision of the site. The MoEP made a major effort to bring the chemical industries in this site under close supervision by leading the creation of a unique municipal structure: a municipality with no residents, whose sole mission was to prevent environmental pollution from the site and allow the growth of responsible, environmentally aware, chemical industries. There was a decision to locate the National Toxic Waste Disposal Center (NTWDC) at the site in order to ensure that it also met the highest standards of environmental safety.

This unique municipal structure was called a "Local Industrial Municipality" (LIM). The head of the council was appointed by the Minister of the Interior (MOI) and the governing council had 9 appointed members: 3 represented on-site chemical industries; 3 represented residents of areas living near the site but not within municipal boundaries; 3 represented government ministries [MoEP, Ministry of Health (MOH) and MOI]. As the Medical Director (Chief Public Health Officer) of the Southern Region of the MOH, I became a member of this unique LIM, named "Ramat Hovav" (RH).

RH was fortunate to have a competent mayor, who, although a political appointee, understood that his goal was to "clean up" environmental pollution from the chemical industries. The members of the council recruited a highly dedicated and professional CEO, who, in turn, recruited a very professional municipal staff. The leaders of the chemical industries understood that unless their companies adopted the highest environmental standards, they would soon not be able to continue to export the majority of their products to the European Union.

Since there are no residents in this LIM, all the municipal taxes could be funneled back into the prevention of air pollution and improvement of waste disposal by the chemical factories. The steps that were taken by RH included:

- 1. The creation of a very professional and well equipped local Department of the Environment (DOE). They developed methods to measure and monitor very low concentrations of specific air pollutants from each chemical factory.
- 2. Strict requirements were issued for the building, running, maintenance and waste treatment and disposal for all the chemical factories at RH, including the NTWDC.
- 3. A rapid response team
 was developed to provide
 immediate response to
 citizen complaints of severe
 odor pollution. The chemical
 pollutions specific to RH
 factories were measured at
 the site of the odor complaint
 and fed into a computer
 model which included 24

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hour meteorological data, enabling determination of the factory responsible for the odor pollution and demands that the implicated factory take steps to reduce its air pollution.

However, despite all these steps, odor pollution remained a major problem due to continued evaporation of volatile organic chemicals from the ponds into which liquid wastes were poured. The chemical factories resisted demands to treat their liquid waste at the factory without discharge into communal evaporation pools. Bedouin residents living close to RH continued to complain of adverse health effects.

Surprisingly, no class action suits, nor tort litigations, were filed regarding either severe odor nuisance or claims of adverse health effects from the air pollution.

In the absence of any legal proceedings, and in light of the right of the public to know the extent of possible adverse health effects from the chemical industries, my office took the initiative to undertake an environmental epidemiological study (EES) to assess potential adverse health effects of air pollution from RH on residents living within a 20 kilometer radius. My office had no research funds. I therefore turned to the CEO of RH. who understood that the primary goal of RH was prevention of adverse health events to residents living nearby. He agreed to budget the EES and transferred the money needed to a blind trust fund in the MOH. The MOH then issued a tender for academic experts to design, perform and analyze the results of the EES.

The results of the EES were presented in a major press conference in 2004, which caused a big media stir, since, although the results were inconsistent, several adverse health outcomes were found to be associated with living in close proximity to RH (increased rates of hospitalizations for chronic obstructive pulmonary disease and increased rates of major congenital malformations among Bedouin living within 20 kilometers of RH when compared to those living more distant).

The MoEP immediately gave a large financial package to RH to reduce air pollution from the site, while demanding that each factory treat its own liquid waste "on site" and end the practice of pooling all liquid waste together in evaporation ponds. RH also had to find a way to eliminate the already-existing evaporation ponds.

The results speak for themselves. In the list of the most polluting areas of Israel, compiled by the MoEP, RH no longer appears.

This model of addressing air pollution from the chemical industry by creating a LIM with no residents has been successful in mitigating chemical air pollution from this chemical-industrial complex in Israel, without use of tort litigation to protect public health from air pollution.

Legal tools for reducing the threat of drinking water contamination in Israel: the case of PFAS



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The United Nations General Assembly has explicitly recognized the human right to clean water and sanitation (United Nations Sustainable Development Goal No. 6 - SDG 6), including the right to sufficient, continuous, safe, acceptable, physically accessible and affordable water for personal and domestic use. In Israel, access to high quality drinking water in the population is very high. In line with advanced international standards, drinking water is regularly tested for various contaminants (as stipulated in the Israeli standards). Despite increasing reliance on desalinated water in recent years (covering more than 70% of Israel's drinking water supply), surface and groundwater

are integral to the drinking water supply system. In order to protect public health and the environment, it is therefore important to protect this resource from environmental pressures and contaminants including pesticides and industrial chemicals.

One group of industrial chemicals which are potential drinking water pollutants worldwide are per- and polyfluoroalkyl substances (PFAS). This group includes thousands of man-made chemicals (also known as "The Forever Chemicals"), which are very broadly used in consumption products and industrial applications, due to their useful surface-active properties, including water and oil repellency, and surface resistance. Given their non-reactivity, high persistence and mobility in air, water and soil, PFAS accumulate in both the environment, animals and humans. Fire-fighting foams have been identified worldwide as one of the main sources of public exposure to PFAS contamination, which specifically occurs in drinking water that originates from areas where such foams have seeped into the groundwater.

The National Academy of Sciences in the US has determined that these chemicals, amassing in biological tissues, impact the immune system, child development, cholesterol levels, and risk of cancer. The Academy nominated a "Committee on the Guidance on PFAS Testing and Health Outcomes" to conduct a systematic review and analysis of the literature on PFAS exposures and associated health outcomes (The Committee's findings are stipulated in its recent report here). In the US, the M3 company and the Dupont company have paid over \$850 and \$670 million,

respectively, in settlements, and the Department of Defense alone was budgeted over \$2 billion for water PFAS contamination cleanup at military bases (presumably mostly contaminated by fire-fighting foams used in training exercises and emergencies). In Europe, estimated costs of PFAS related environmental remediation are at €16.9 billion. A recent study has estimated annual health-related costs across Europe at €52-84 billion, noting that these costs are likely underestimated, as only a limited range of health effects (high cholesterol, decreased immune system and cancer) associated with exposure to a few specific PFAS, were included in the estimates.

In a 2021 survey conducted by the Israel Ministry of Health, over 15% of drinking water wells with suspected contamination had measurable levels of PFAS. Mapping of contaminated wells and industrial hotspots pointed to use of fire-fighting foams in the energy sector and airports and army as the main source of contamination.

In both the US and Europe, there are rapid regulatory developments underway to prevent further environmental contamination from PFAS. For example, the Registration, Evaluation, Authorisation and Restriction of Chemicals in Europe (REACH) and the Toxic Substances Control Act (TSCA) give regulatory authority to the European Environment Agency (EEA) and the US **Environmental Protection Agency** (USEPA), respectively, to take action to address unreasonable risks to public health or the environment from chemicals on the market. Measures to reduce PFAS contamination mainly address well-known PFAS substances,

particularly perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS), which are priority hazardous substances under water quality regulations in the US and Europe. PFOA and PFOS are also listed under Annex A of the Stockholm Convention on persistent organic pollutants (POPs), implying that parties to the Convention should eliminate the production and use of those chemicals.

The Ministry of Environmental Protection (MOEP) in Israel promoted a law in 2020 on Chemicals Registration to establish a mechanism to systematically register industrial chemicals (as has already been implemented in other OECD countries), but the law was not passed in Parliament. The proposed law would give the MOEP regulatory authority to collect data on industrial chemicals in Israel, improve knowledge regarding risks and reduce risks to health and environment from such chemicals. In addition, as opposed to 180 countries worldwide, Israel has yet to ratify the aforesaid Stockholm Convention, to restrict use of certain PFAS compounds. In the absence of comprehensive regulations on chemicals in Israel, there are scant regulatory restrictions in place to prevent continued environmental contamination from PFAS. Regulatory restrictions on chemicals are divided between different regulatory agencies – with major regulatory gaps remaining. PFAS are not yet included in the abovementioned Israeli drinking water standards, and are tested on a voluntary basis only, rather than a binding regulatory basis. Whereas all water sources in Israel have been tested for the chemicals stipulated in the Israeli standards,

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data on PFAS levels are available on only 100 out of 1,000 sources. In addition, the Ministry of Health has the authority to close water sources with PFAS only above a certain cutoff level, and a stricter cutoff level will come into force only in 2026.

In summary, a range of environmental pollutants, including gasoline, pesticides and fertilizers - threatens Israel's limited surface water and groundwater resources. For most environmental contaminants, these are regulatory restrictions in place to prevent or manage these risks. However, Israel's complex regulatory landscape for environmental chemicals leaves considerable gaps. In the case of PFAS, this gap has led to a failure to prevent ongoing environmental contamination with PFAS. The NGO Israel Union for Environmental Defense recently submitted a petition to the Supreme Court calling for regulatory action to prevent ongoing contamination of drinking water and public health impact. The outcome of the petition is expected to have broad impacts on chemicals regulations and drinking water quality in Israel.

WAML President's Report



Roy G Beran AM, MBBS, MD, FRACP, FACLM President of WAML

We are entering the end of the first guarter of 2023 and the Executive Committee of the WAML has been extremely busy. We have established the new committees. including: the Audit Committee, being chaired by Professor Raposo; The By-Laws Committee, chaired by Hon Richard Wilbur; the Education Committee, chaired by Prof Andre Pereira: and the Social Media Committee, chaired by our Executive Vice President, Luis Rayanal. Each of the committees will be asked to provide a summary of its activities, covering developments that occurred during the previous month, by the 3rd day of the following month, to ensure that the executive is fully appraised of current developments, to be reviewed at the subsequent Executive Committee (EC) meeting. To further enhance transparency of the activities of the various committees, with the obvious exception of the Audit Committee which is there to oversee the proper management of the WAML, both the President and the Secretary General serve as ex-officio members of all the WAML committees.

The Social Media Committee has put out to tender a request for

costings to revamp the WAML web page and to establish new media facilities, such as Facebook. Twitter or Instagram, all of which are an anathema to an oldie like me, but something that will hopefully rejuvenate the image of the WAML and encourage the younger generation to become involved and to contribute more to the WAML family. The By-Laws Committee has been actively reviewing the rules by which the WAML operates and has been collecting the views of its members. The Education Committee is establishing its first face-to-face virtual meeting, over the internet, with the aim of finding a suitable time zone that accommodates members from all over the planet. With the consent of the previous members, the Finance Committee was disbanded and its responsibility shared between the Treasurer and the Chair of the Audit Committee who were considered the most responsible members of the team, working in close collaboration with the Administrative Officer, Ms Denise McNally. The last EC Meeting was the first of the new administration, being provided with a financial report controlled by the Treasurer, together with the chair of the Audit Committee. It was decided that all future EC meetings will be furnished with a specific financial report, summarising the financial activities of the WAML.

The EC has reviewed the requisites for new membership of the WAML and has revised the membership application form to include the requisite of the provision of the name of a suitable referee who does not need to be a member of the WAML. The principal requirement will be

that the referee is of 'good fame and character' and able to provide assurance that the applicant is suitable to join the WAML family. It was decided that all the members of the Board of Governors should serve as active ambassadors of the WAML and should actively pursue new membership, as well as encourage active participation in the forthcoming WCML, in Vilnius, in August 2023.

Initially Ms McNally, the WAML Administrative Office and Conference Organiser, was supposed to attend the site visit in Vilnius but her father, who was older than 100, passed away just prior to the planned trip, causing her to be unable to attend. The WAML family expresses its sincere condolences to Dee, as we affectionately know her, and wish her a long life full of happiness that mirrors that of her father. I travelled to Vilnius and had the opportunity to inspect the planning and provisions for the 27the World Congress for Medical Law (WCML). The Program Chair, Prof Toma Birmontiene, has been active and has set her sights extremely high. She has involved Mykolas Romeris University, where I was able to meet with: the Rector, as well as the Dean and other academic members of the Law Faculty. At Vilnius University I met with the Dean of Medicine and his deputy. I also met with the justices of the Lithuanian Constitutional Court, where Prof Birmontiene served her 9 years' tenure, and representatives of the Forensic Medicine Institute. It can be seen that the calibre of the local involvement, amongst those with whom I met and who are concerned with the planning of the conference, is of sufficient authority to bode extremely well for the standard of

the next WCML. It is exciting to think that that we will be meeting in August to realise that potential in the 27th WCML, Prof Birmontiene is determined to show off her home city and the venues chosen. for the conference, are extremely impressive and extend beyond the Radisson Blu Hotel which will host days 2 and 3 of the WCML, with day 1 to be held at the campus of Mykolas Romeris University. Prof Birmontiene is also planning a visit to the Forensic Medicine Institute for all those involved in forensic medicine and has adopted the attitude that this will be a true mixture of academic excellence and social intercourse. Let us all hope that by August the world will enjoy a new level of peace and prosperity and the current conflicts will be part of history.

The new EC has adopted a policy of full and open disclosure and the minutes of each of the EC meetings will be shared with the Board of Governors and the Audit Committee, to ensure absolute transparency for all the decisions being taken. The aim is for the Board of Governors to become fully involved with the activities of the WAML. It is hoped that this will translate into those, serving on the Board of Governors and in the various committees, accepting that they have an absolute commitment to the WAML. This should mean that the WAML becomes revitalised, after the Covid pandemic, that it assumes new activities and influences and that it resumes its role as the peak body in health law, legal medicine and bioethics. We, serving on the EC, appreciate that the WAML is only as effective as is its Board of Governors and you, our dedicated members, and we are here to serve you. Should you have any ideas,

advice or questions that you wish to raise, please feel free to do just that, either with your local governor or the EC or please feel free to contact me, through the Office of the WAML. Together we will overcome the isolation and lethargy, evoked by the Covid pandemic, and enjoy a level of education and social interaction that was not part of our restricted environment.

Today, I learnt of the passing of Betty Lou Wilbur, a real lady and the epitome of elegance, grace and beauty. She was a treasured member of the WAML family and the strength behind one of our staunchest and most active WAML members. Hon Richard Wilbur. Last year, at the 26th World Congress for Medical Law (WCML), was the first WCML, in my memory, which she did not attend and Dick, her devoted husband, explained that she could not handle the long distance travel. This translated to, the last time I personally met Betty Lou being pre-Covid and how the world has changed since that time. My heart, and I am sure that I speak for the whole WAML family, goes out to the Wilbur family as it does to the WAML family, for our loss of a truly beautiful lady whom we all will miss greatly. There is nothing that one can say that can lessen the pain but we can take comfort knowing that her legacy and warmth will live on in the hearts of all those who knew her and who benefitted from her kindness, wisdom and personal generosity. I wish all the members of the Wilbur family a long life and may Betty Lou rest in peace.

Roy G Beran President The World Association for Medical Law

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WAML Secretary General Report



Adv. Jonathan Davies

In my first report in WAML newsletter, I wrote that new Executive Committee (EC) and Board of Governors (BoG) seek to expand knowledge and discuss mutual issues that concern medical law associations, Public health law, Bioethics and legal medicine organizations around the world.

I am happy to report, on behalf of the EC, and with the leadership of President Roy Beran, we are in the process of changing the face of WAML.

EC is considering the suggestion to translate the Newsletter to other languages. We also seek to expand its distribution to affiliated organizations and distribute WAML publications to the top 50 leading - Medical Law - Universities in the world!

We are in the processes of reorganizing WAML committees. EC has approved 6 new committees that will be led by new chairs; Audit Committee, Bylaws Committee, Education Committee, Newsletter Committee, Program Chairs Committee and Social Media Committee.

We decided to set up a "Program Chairs Committee" where recent WCML chairpersons can contribute from their experience to the next program chairs.

The bylaws committee, Chaired by Dr. Dick Wilbur has already changed a few drafts updating the bylaws to the post Covid situation adding Public Health Law to main issues that WAML will be discussing in the coming years. The committee will present final draft of bylaws at Vilnius meetings at the 27th WCML for the approval of the BoG.

After a few weeks of deliberations, the Education committee was setup. We congratulate Prof. André Dias Pereira from Portugal for accepting the Chairmanship of the Education committee. Excellent people joined the committee, which has an important role in shaping WAML's future issues that we will discuss.

Social Media committee chaired by EVP Prof. Luis Ravanal is reviewing offers to change the interface of WAML's web site and other social media communications. We hope to report changes in the near future.

We live in a global society where regional problems suddenly became global issues that concern all of us. Pandemics such as Covid, Sars, FASD, Diabetes, Obesity, Cancer, Medical errors and the ramifications of Global warming (i.e. water shortage) are indifferent to national or geopolitical interests.

Just last month the world witnessed another disaster that has an influence. The earthquake in Turkey and Syria killed over 50,000 people and left many more homeless. This devastating tragedy is a huge blow to health systems of these nations and a public Health and economical Issue. Thousands of volunteers crossed the borders to help rescuing survivors from the rubble, but Turkey and Syria will have to face the rehabilitations project.

Soon after the Tragedy BoG members contacted our peer and dear treasurer Dr. Berna Arda from Turkey sharing with her our sympathy and care.

Dealing with crises in the Public health sector requires collective action. Covid pandemic illustrated that the willingness to self-isolate and vaccinate in order to avoid the spread of the pandemic based on solidarity and humanity; that is, on a sense of community and identification, which leads to willingness to act for common good. The erosion of solidarity will impede the efforts to deal with health crises such as that of Turkey's earthquake and those yet to come.

These earthquake outcomes are devastating, but calls for international collaboration and solidarity, enforcing policies and sharing knowledge to establish better practices to avoid future disasters.

In this issue of the newsletter, we present five articles from the table of the leading professional's members of the Public Health Law and Ethics Forum in Israel that present different approaches to Public Health Law Issues that concern today's world.

The aim of the forum is to create fertile discussions from different points of view that present different approaches within the disciplines

in order to create a modern Public Health Law & Ethics approach, and influence decision-makers through position papers presented by the working groups through the forum.

These discussions are applicable in every society but especially in WAML and can bring to the table experience and evidence based knowledge that can fertilize our collaboration.

WAML can serve as a platform for exchange of views between peers and promote disscutions on topics that influence Public Health Law issues for the benefit of the people of the World.

On behalf of the EC, I wish WAML members good health, prosperity, and keep safe.

Looking forward to seeing you in Vilnius, Lithuania in August 2023!

WAML Treasurer Report



Prof. Berna Arda (MD MedSpec PhD) Ankara University Faculty of Medicine Ankara TURKEY

Valued member of WAML

As you know, my country Turkey got hit by two earthquakes (magnitudes 7.7 and 7.6) on 6th February. The same earthquake also hit Syria, more than 5 million people now are homeless there.

15% of Turkey's population lived in this southeast region.

The total impact area of the earthquake is more than 85.000 km2, equal to one Austria or two Denmark and three Belgium.

Over 50 000 people have died as the biggest casualty in the country's history. Injured people amount is so high and most of them had to be amputated. Being trapped under rubble without immediate help and severe organizational deficiencies in the first days of this disaster. This situation has led to a serious inquiry of the government which has been in power alone for twenty years. The reports of the Turkish Medical Association and Human Rights Foundation of Turkev in the earthquake area contain direct criticisms of the government's

practices. The consequences of the destruction are huge and multidimensional. This is not only the loss of the country's human capital but also the great damage to a region in the southeast that hosted many different cultures and different beliefs for centuries. Despite everything, we saw how important social solidarity is and we still have such a feature. We are also grateful for the all international rescue teams' efforts.

While preparing to celebrate the 100th anniversary of the founding of the Republic in 1923, no one would have thought of encountering such a disaster. It is clear that in order for natural and unpreventable events not to turn into a real disaster, it is necessary not to waste any seconds, to be better organized, to set priorities very well and not to make any concessions.

See you in Vilnius

Prof. Berna ARDA

WAML Executive Vice President Report



Luis Ravanal MDWAML Executive Vice President

Since we took office this year, the new Executive Committee has initiated an activity that I believe has been intense and beneficial, in an effort

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to improve and modernize WAML, with an active and constant daily and sometimes multiple communication among the members of the Executive Committee, which in these first two months of exercise has allowed the active integration of the different governors, restructuring the organization through new committees and eliminating those that were not entirely practical.

On the other hand, with regard to the modernization and expansion of WAML worldwide, we are developing various contacts and collecting background information with different expert companies, in order to modernize the website, while increasing the dissemination of the organization's information through the different social media. This is nowadays an indispensable tool to communicate the work and activities that we develop, which in turn will allow us to massively reach a greater number of people, facilitating the incorporation of new members, in addition to disseminating the activities that we usually develop, especially those related to the congresses. We have received background information from various applicants and their offers, so we are in the final stage that will allow us to make a decision regarding the firm that will be responsible for carrying out this modernization activity that to me personally, as Chair of the Social Media Committee, is of greater relevance, since it is our presentation card and introduction letter to the world, also a tool for members, which will certainly simplify access to the resources offered therein.

On the other hand, the Executive Committee continues to directly support the organization of the next Congress to be held in Vilnius, Lithuania, in August of this year, valuing the work and effort being developed by Toma Birmontiene, with the close collaboration, coordination and expertise that Denisse McNally, as always, brings to the organization in all aspects.

The success and growth that the organization needs, lies in the interest of its members, which is reflected through the direct participation in the daily tasks that each one of us has accepted and has to develop, being key and essential in the process of renewal, the active participation of all of the Governors, which in so few months is advancing by leaps and bounds, awakening everyone with the new waves of modernization, focused on the same horizon, with a great team of professionals like you.

WAML Meeting Planning and Administration



Denise McNally,WAML Administrative Officer and
Meeting Planner

Join us for the 27th World Congress on Medical Law (WCML)

August 2 – 4, 2023 Vinius, Lithuania



The Destination

This year, the World Association for Medical Law (WAML) Annual Congress will take place on August 2–4 in Vilnius, Lithuania. This is the 27th WAML World Congress. WAML, founded in 1967, brings together lawyers, scientists, attorneys, and medical practitioners from all over the world, in both academic and practical fields. The WAML World Congress is a prestigious event with a long tradition, held each year in a different country around the world.

The Vilnius Congress will discuss a wide range of issues in legal medicine, such as the challenges and successes of ongoing health system reforms to ensure access to quality health care; the role and responsibility of civil society in the health sector; new challenges to health systems in the post-pandemic period; the protection of patients' rights; and the role of forensic medical experts in the investigation of war crimes.

The Congress will not only become a great opportunity to get to know Vilnius – the capital of Lithuania, celebrating its 700th birthday this year, with its rich historical traditions and the designation of its historic center as a UNESCO World Heritage site, but it will also provide an excellent platform for new partnerships in the academic field and closer cooperation of representatives from medical and legal professions. The Vilnius Congress will create ample opportunity for young scientists to meet like-minded fellows to work on future projects.

Themes

- Protection of Patients' Rights Challenges and Responsibilities of the State and Civil Society
 - The legal and ethical limits of scientific developments and progress in medicine.
 - Technological developments and patient data protection. The right to privacy versus public interest.
 - The role of Civil Society in raising awareness and disseminating information to promote patient rights.
 - Fostering more effective resolutions for disputes between patients and healthcare institutions.
 - Contemporary issues pertaining to healthcare service provider liability.
- 2. Transformations in Healthcare Systems as an Inevitable Process in Achieving Excellence
 - International organisations and new initiatives to adjust national healthcare systems in the face of global challenges. The role of healthcare policies

- in fighting the global challenges pandemic, climate crisis.
- Fostering sustainability in healthcare systems.
- Redesigning the legal frameworks of national healthcare systems following the latest achievements of biomedical science and fighting social and economic inequalities.
- 3. New Challenges for International Cooperation in the Field of Legal Medicine (Forensic Medicine)
 - International cooperation in mitigating natural and man-made disasters.
 - New challenges for legal medicine in combating terrorism, organised crime, war crimes.
 - Technological and scientific research innovations in legal medicine

Registration for the 27th World Congress for Medical Law is Now Open!

Please use the relevant links below and follow the instructions.

Register for WCML (2 - 4 August, Vilnius): https://wafml.memberlodge.org/event-3836997

Registration information may be found online at World Association for Medical Law - Registration Information

Submit an abstract for WCML: https://app.oxfordabstracts.com/stages/5375/submitter

All participants at the 2023 World Congress for Medical Law (WCML) are invited to submit abstracts. Complete abstracts must be submitted online no later than April 12, 2023. Faxed, emailed or mailed abstracts are not acceptable. All accepted and presented abstracts will be published in the Medicine and Law Journal.

Please read the instructions provided online https://wafml.memberlodge.org/2023-Abstract-Submission

Book Hotel Accommodation: Radisson Blu Hotel Lietuva will be the Lodging and Congress Venue. Room rates are 110,00 € Single and 120,00 € Double. Room rate includes a breakfast buffet, wireless internet and usage of the fitness area including sauna. Room rates do not include City Taxes

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(1 EUR per person). Reserve your Room HERE. Promotion Code: WAML23

Tours and Excursions: https://www.waml2023.eu/tours-excursions/

Executive Committee Meeting, Board of Governor Meeting and Program Dates during 2023 WCML (Vilnius, Lithuania)

- Monday, July 31, 2023 –
 Executive Committee Meeting
- Tuesday, August 1, 2023 Board of Governor Meeting
- Tuesday, August 1, 2023 –
 Welcome Reception
- Wednesday, August 2, 2023 Congress Program
- Thursday, August 3, 2023 Congress Program
- Friday, August 4, 2023 –
 Congress Program
- Friday, August 4, 2023 Gala Dinner

Membership Dues

The purpose of the World Association for Medical Law (WAML) is to encourage the study and discussion of health law, legal medicine, ethics and forensic medicine for the benefit of society and the advancement of human rights.

Membership in WAML is Annual and your 2023 membership dues were due by December 31, 2022. Membership dues are \$150. If you received a notice that your membership has lapsed you still have the ability to login to your profile, generate a dues invoice and pay.

WAML members enjoy many benefits which include access to quarterly E-Newsletters, discount registration fees to the WAML Congress, notice of upcoming events, active website information, the "Medicine and Law" electronic Journal and discounted access to activities of affiliated organizations.

We encourage you to log into the WAML website http://wafml.memberlodge.org/ and pay. After logging in choose 'View Profile' (located top right), click 'Membership' and then "Renew'. You also have the option to pay by check or wire transfer.

If your membership dues are paid, thank you!

Join us
for the
27th
World
Congress
on
Medical
Law
(WCML)

August 2 - 4, 2023

Vilnius, Lithuania

https://www.waml2023.eu/

FUTURE MEETINGS

Of Affiliated National Associations and Collaborating Organizations

Australasian College of Legal Medicine

March 25 - 26, 2023

Hobart, Tasmania, Australia

Website: https://legalmedicine.com.au/aclm_event/2023-annual-scientific-meeting-awards-dinner/

National Association of Medical Examiners - 2023 Interim Meeting

"Collaborative Forensic Pathology with Forensic Anthropologists and Biologists" Program Chairs: Theodore T. Brown, MD and Jason H. Byrd, PhD April 11, 2023

1:00pm - 5:00pm CST

Website: https://www.thename.org/interim-meetings

FFLM 16th Annual Conference 2023

May 12 - 13, 2023

Website: https://fflm.ac.uk/annual-conference-2023/

27th Annual WAML World Congress

August 2 – 4, 2023 Vilnius, Lithuania

Website: www.thewaml.com

57th Annual National Association of Medical Examiners Meeting

October 13 – 17, 2023 San Jose, California (USA)

Website: https://www.thename.org/annual-meetings

28th Annual WAML World Congress

August 8 – 11, 2024 Toronto, Canada Website: www.wcml2020.com

www.thewaml.com

58th Annual National Association of Medical Examiners Meeting

September 19 – 23, 204 Denver, Colorado (USA)

Website: https://www.thename.org/annual-meetings

29th Annual WAML World Congress

August 6 – 8, 2025 Istanbul – Turkey

Website: www.thewaml.com



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