IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2016 5845

FINDING INTO DEATH WITH INQUEST

Form 37 Rule 60(1)
*Section 67 of the **Coroners Act 2008***

Findings of:	**MR JOHN OLLE, CORONER**
Deceased:	**VINCENZO BELLINA**
Delivered At:	**THE CORONERS COURT OF VICTORIA, 65 KAVANAGH STREET, SOUTHBANK**
Hearing Date:	**12 & 13 MARCH 2019**
Coroners Assistant:	**LEADING SENIOR CONSTABLE D CATHIE**
Representation:	**MS N HODGSON FOR PENINSULA HEALTH**

HIS HONOUR:

I, John Olle, Coroner, have investigated the death of Vincenzo Bellina
AND having held an inquest in relation to this death on 12 and 13 March 2019 at the Coroners Court Victoria Melbourne
find that the identity of the deceased was Vincenzo Bellina
born on 3 March 1968
and death occurred between 6 December 2016 and 10 December 2016
at 2299 Point Nepean Road, Rye 3941
from:

1(a) SEPTICAEMIA IN A MAN WITH A PSOAS ABSCESS

2 DIABETES MELLITIS

In the following circumstances:

BACKGROUND

1. Mr Vincenzo Bellina ('Vincenzo') was aged 48 years at the time of his death.

2. Vincenzo was an insulin-requiring diabetic, who was known to have a degree of alcoholic liver disease, chronic pancreatitis and mild cognitive impairment ('MCI'). He lived alone at 2299 Point Nepean Road in Rye, however received significant support from his parents for his daily living meals, cleaning, shipping and medication management.

3. On 21 November 2016, Vincenzo underwent ambulance transfer to Frankston Hospital, Peninsula Health ('PH'). In the week prior to his admission ('the admission'), he had been suffering from back pain and had infective symptoms - a CT scan subsequently revealed a psoas abscess. A percutaneous drainage was performed on 22 November which removed 800ml of pus. Post-operative care was unremarkable and appropriate. Significantly, a prolonged course of intravenous anti-biotics was commenced to complete treatment of the abscess.

4. On 29 November, Vincenzo expressed reluctance to continue intravenous anti-biotics. He claimed they caused him shortness of breath. On 30 November 2016 he refused to

have a Peripherally Inserted central Catheter (PICC) – however was ultimately encouraged to continue with intravenous therapy.

5. On 1 December, a family meeting was convened. Vincenzo's parents raised concerns about Vincenzo's ability to cope at home, particularly in relation to medication management, meals and dressing. The clinical plan was for Vincenzo to remain in hospital for a month to receive intravenous anti-biotics. However, in a subsequent meeting that day, in the absence of his parents, Vincenzo stated he "did not want to involve his parents in his health care."

6. On 5 December, following review by members of the infectious disease team, the management plan had evolved to oral anti-biotics at home.

7. On 6 December, Vincenzo was discharged from PH, after being seen by most representatives of allied health. The social work notes record: "patient reported nil concerns for discharge home today" Vincenzo accepted referral to Post Acute Care and Home and Community Care services. Importantly, Vincenzo assured staff at discharge, that his father and mother would assist with meals, activities of daily living and shopping.

8. Sam Bellina (Vincenzo's father) informed the court he spoke with Vincenzo on 5 December. Unaware that the plan for Vincenzo to remain in hospital for approximately 4 weeks to complete his course of intravenous antibiotics had changed, Sam returned to Melbourne.

9. On 9 December, Sam unsuccessfully attempted to call Vincenzo on his mobile.

10. On 10 December, Sam called the hospital directly. Upon being informed that Vincenzo had been discharged home on 6 December, Sam and wife drove to Rosebud to find Vincenzo deceased in his bed.

PURPOSES OF CORONIAL INVESTIGATION

11. Reportable death[1] requires certain deaths to be reported to the coroner for investigation. Apart from a jurisdiction nexus with the state of Victoria, the definition of a reportable death includes all deaths that appear "to have been unexpected, unnatural or violent or to have resulted, directly or indirectly, from accident or

[1] Section 4 of the Act

injury." The purpose of a coronial investigation is to independently investigate a reportable death to ascertain, if possible, the identity of the deceased person, the cause of death and the circumstances in which the death occurred.[2] The practice is to refer to the medical cause of death incorporating, where appropriate, the mode or mechanism of death, and to limit the investigation to circumstances sufficiently proximate and causally relevant to the death.

12. Coroners are also empowered to report to the Attorney-General on a death they have investigated; the power to comment on any matter connected with the death, including matters relating to public health and safety or the administration of justice; and a power to make recommendations to any Minister, public statutory or entity on any matter connected with the death, including recommendations relating to public health and safety or the administration of justice[3] regarding reports, recommendations and comments respectively.

13. The focus of a coronial investigation is to determine what happened, not to ascribe guilt, attribute blame or apportion liability and, by ascertaining the circumstances of a death, a coroner can identify opportunities to help reduce the likelihood of similar occurrences in future.

INTRODUCTION

14. Acting Sergeant Gary Steel has prepared a comprehensive coronial brief.

15. I am satisfied all witnesses called at inquest gave full and frank evidence and sought to assist my investigation.

16. I take this opportunity to thank my assistant Senior Constable Darren Cathie, Police Coronial Support Unit, Ms Naomi Hodson of Counsel, for Peninsula Health, together with her instructing solicitor Kate Mellier. I have been greatly assisted by their respective contributions.

17. In my Finding, I do not purport to summarise all of the material or evidence adduced, however will make reference only in such detail as is warranted by forensic significance and where otherwise appropriate. The absence of reference to an aspect

---

[2] Section 67 of the Act
[3] Section 72(1), 72(2) & 67(3) of the Act

of the evidence, either obtained through a witness or tendered in evidence, as well as submissions, does not infer that it has not been considered.

FOCUS OF THE INVESTIGATION

18. The primary focus of my investigation is whether the discharge plan reflected Vincenzo's pre-morbid status. Specifically, in circumstances in which Vincenzo's parents, due to his MCI played a prominent supportive role in Vincenzo's life, was it reasonable and appropriate to discharge Vincenzo, without informing his parents.

BACKGROUND

19. Vincenzo had Mild Cognitive Impairment (MCI). Vincenzo's medical file at PH contained a discharge summary from a primary Melbourne hospital following a previous hospital admission, which assessed Vincenzo as medically competent. Though unaware of the previous assessment, PH clinicians at no stage considered Vincenzo medically incompetent.

20. At a mention hearing, Sam produced a psychoneurology report dated 2013. The comprehensive report highlighted Vincenzo's strengths and weaknesses in respect to his MCI. For my purposes, the report stressed the important need for parental involvement due to Vincenzo's inability to manage tasks, including medication management.

21. Regrettably, the psychoneurology report was not available to PH staff during the admission.

RELEVANT PROXIMATE FACTS

22. On 21 November 2016, Vincenzo was admitted to PH 'in extremis' re sepsis. He underwent a 15-day admission, involving intravenous (INTRAVENOUS) anti-biotics until 3 December 2016.

23. I am satisfied his parlous state generated a comprehensive and dedicated response of all PH surgical, infectious disease, medical and allied health clinicians.

24. On 1 December, a family meeting was held. In his parent's presence, Vincenzo explained his mother supported him in "everything' including medication management. The issue of contention appeared to be parental wish that Vincenzo be

transferred to rehab upon discharge. Clinicians explained that intravenous anti-biotics were necessary and would require a prolonged hospital admission.

25. Later that day, Vincenzo attended a subsequent clinical meeting, in his parent's absence. Vincenzo advised clinical staff he did not want to continue intravenous anti-biotics and further stated he did not want his parents involved in his healthcare and discharge planning.

26. Despite Vincenzo's stated wish to cease intravenous anti-biotics, following encouragement of clinical staff, he remained on intravenous anti-biotics for several days.

27. However, on 5 December, despite determined efforts of several clinicians to convince Vincenzo to continue on intravenous anti-biotics, he refused. Following review by infectious disease specialists, the plan altered to allow oral anti-biotics. In consideration of the change to oral anti-biotics, together with Vincenzo's significant improvement in health, combined with several negative blood culture results, discharge was planned for the following day, 6 December.

28. Clinical staff interpretation that Vincenzo had withdrawn consent in respect to his parents, resulted in Vincenzo's parents not being informed:

- he would no longer remain in hospital to complete a 4-week course of intravenous antibiotics, and;
- he would be discharged home on 6 December.

Consequences of Vincenzo's refusal to exclude parents from his healthcare and discharge planning.

29. Firstly, I accept all clinical and allied health witnesses who appeared at inquest did not consider Vincenzo was medically incompetent. Further, I am satisfied medical and allied health staff comprised a treatment team. Clearly Vincenzo's health and welfare were the paramount consideration.

30. The team, in particular the support worker ('SW') and the occupation therapist ('OT'), were acutely aware of the significant and necessary support Vincenzo's parents provided him in every aspect of his day to day life. Although he lived independently, his mother spent alternate weeks with him. Vincenzo explained to the OT, she set up

his medications and phoned him to remind him to take his medications. Counsel for PH appropriately and eloquently described the devoted care and unstinting support Vincenzo's mother provided him – which most certainly would entail daily phone calls in the off week each fortnight.

31. The OT considered Vincenzo was close to pre morbid status however advised that Vincenzo would require increased supports at discharge. She suggested RDNS and/or webster pack be considered.

32. She agreed with the discharge plan, though stated that due to the importance of complying with the oral anti-biotics, increased support was necessary.

33. At discharge on 6 December, the SW reminded Vincenzo of the potential risk to life of not taking anti-biotics. Vincenzo explained his parents would support him as they had done prior to admission – an explanation I unequivocally accept she genuinely accepted would occur. Further, the SW was aware the number of medications Vincenzo was required to take were comprised a significantly greater load at discharge, than he carried on admission. At discharge – 4 times per day anti-biotics. The SW was an impressive witness. She was acutely aware non-compliance with oral anti-biotics could have fatal consequences. She would not have countenanced Vincenzo's discharge, had she held any concern that his parents would not be providing the significant support they provided Vincenzo at the time of admission.

34. Vincenzo's discharge plan included home cleaning services to attend on a fortnightly basis and medical review in 6 weeks. In the genuinely held belief Vincenzo's parents would provide the pivotal support he required, it was not considered necessary to engage RDNS support.

35. On 9 December, unaware of Vincenzo's discharge, Sam attempted to phone Vincenzo on his mobile. Sam called PH reception directly on 10 December, and upon being informed of the 6 December discharge, drove his wife to Vincenzo's flat in Rosebud to find him deceased in his bed.

36. I have heard in open court, the devastating and enduring grief suffered by Sam and his wife.

SUBMISSIONS ON BEHALF OF PENINSULA HEALTH

37. I have carefully considered the comprehensive submissions of Counsel for PH, the significant points of which I set out hereunder.

- The Court outlined its concerns about whether Vincenzo [4]was competent and entitled to make his own medical decisions about his healthcare including whether to inform or involve his parents in his care and whether he could have been relied upon to manage his medications at home and taken responsibility to be compliant with the medication.

- The Court asked PH if it accepts in hindsight that investigations or assessment of Vincenzo's competence at the time of discharge should have been undertaken. If so, what steps have been taken or are intended to be implemented to make sure a discharge in such circumstances does not occur.

- As foreshadowed at the directions hearing, we have interviewed and provide statements of a number of clinical staff and allied health staff who were involved in Vincenzo's care to address the Court's concerns. As a result of those interviews, PH submits the following:

  a. At no time did any of the clinicians or staff consider that Vincenzo was not competent to make his own medical decisions and decisions about what care he would have at home. Nor did anyone consider that an assessment was required to test or establish his competence.

  b. After Vincenzo withdrew his consent for involvement and discussion with his family, there was no authority to speak to his parents, and most importantly, no evidence or signs that clinicians should override Vincenzo's decision.

  c. Given the family's previous involvement in Vincenzo's life and Vincenzo telling staff on 6 December 2016 that he would discuss with his parents any further services he required at home, staff were entitled to believe he would call his parents upon discharge.

[4] I note Vincenzo is referred to as Mr Bellina in PH submission

d. Accordingly, PH does not consider it ought to have performed an assessment of Vincenzo's mental cognition or competency prior to discharging him from hospital.

38. I accept PH staff genuinely believed Vincenzo's parents would continue to support him upon discharge. And further, they considered Vincenzo's withdrawal of consent prevented further communication with his parents.

Preliminary Matter – Cause of Death

- As a preliminary matter, PH notes that the bacteraemia listed by the pathologist in the cause of death are different to the bacteraemia that Vincenzo presented with in hospital. Further Vincenzo had 4 clear blood cultures by 7 December 2016 (3 prior to leaving the hospital). It is also noted that the antibiotic Clindamycin which was prescribed to treat the bacteraemia in the hospital and with which he was discharged, would not have covered the bacteraemia listed in the autopsy report. Please see attached relevant extract from the Australian Medicines Handbook 2017. Accordingly, it is submitted that it cannot be concluded that Vincenzo died as a result of a failure to take (or take appropriately) his prescribed antibiotics.

39. I accept this submission. The supplementary report of Dr Dodd, forensic pathologist at the Victorian Institute of Forensic Medicine supports this submission.

Health Records

- The medical records include a discharge summary from another primary hospital from 2014, which was referred to by the General Surgeon in his statement dated 22 June 2017. However, none of the clinicians or staff were aware of the Hospital record at the time of treating Vincenzo and accordingly, it is submitted it did not influence their assessment of Vincenzo.

40. I accept this submission.

- Further, it appears the neuropsychologist's letter provided to the Court by Sam was not previously provided to PH or its content known by those treating Vincenzo. It is noted that the letter showed that Vincenzo showed difficulties with planning and organisational skills. Further, the letter indicated that

Vincenzo may have trouble following information, holding it in his mind and manipulating it. Again, this information was not known or told to staff at PH. Indeed, on the impressions of the surgical team who dealt with Vincenzo, he was able to understand the dangers of refusing antibiotics and able to articulate those dangers himself to the staff. This was an example of his cognitive ability or competence, and no contrary examples were seen by staff.

41. Save for Vincenzo propensity to inject insulin through his clothing, which I will address shortly, I accept this submission.

Competency

- While the Court (and Sam) have raised concerns about Vincenzo's competency, it should be noted that his competency to make decisions about his healthcare and the fact that he was assisted by his parents in his activities of daily living are not inconsistent themes.

- The clinicians and allied health staff that cared for Vincenzo all concluded that he was competent to make decisions about his healthcare and did not consider that an assessment of his competence or cognition was required. That did not mean that Vincenzo did not, or would not, require assistance with his activities of daily living when he returned home. Many people may be able to make decisions regarding their own healthcare, but require assistance with physical tasks, in remembering medication or with their meals.

- Indeed, consideration was given about which activities of daily living he may require assistance with when he returned home. Although he had no external services prior to his admission, discussion was held with him about (a) cleaning services which would be arranged upon his discharge and (b) the fact that he would discuss with his parents if he required any further external services.

- The fact of Vincenzo having a mild-cognitive impairment (as has been recorded in the notes) did not mean that could not make decisions about his own healthcare or live independently, as he had done prior to his admission to the hospital. Although he was assisted in his meals and reminded of his medication by his parents, he lived alone in Rosebud while they seemingly

resided in metropolitan Melbourne. There was no evidence to suggest that Vincenzo had any formal guardianship of any kind. Further, in all of their dealings with Vincenzo, staff found him capable of independent thought, decision making and articulation of his needs and wants.

42. I accept PH treatment team did not consider Vincenzo was medically incompetent.

Consent and Privacy

- Vincenzo clearly (as is documented) withdrew his consent for PH staff to discuss his healthcare with his parents. His discharge from hospital clearly falls within his healthcare, particularly in circumstances where the discharge home on antibiotics was as a result of refusal to receive IV antibiotics, which if accepted, would have meant a longer admission.

- Under the Health Privacy Principles (schedule 1 to the Health Records Act (Vic) 2001) an organisation must not use or disclose health information about a person other than for the primary purpose it was collected. That principle contains exceptions, although none of which are relevant to the present case. The principles also state that a health service provider may disclose health information about an individual to an immediate family member of the individual if the disclosure is not contrary to any wish expressed by the individual of which the organisation is aware. (emphasis added)

- Vincenzo had expressed his wishes for PH not to discuss his healthcare with his family and although staff were aware of a mild cognitive impairment, they did not hold concerns for Vincenzo's competence or ability to make decisions for himself. Accordingly, there were no exceptions which would have allowed staff to inform Vincenzo's parents about his discharge.

- Further, Vincenzo had told the social worker he would discuss the services he needed at home with his parents, accordingly, while he did not want them involved his in healthcare, there was no evidence to suggest to staff that he would not continue to include his parents in his activities of daily living as he had done prior to his admission. Further, in terms of his level of functioning, there was no sign that Vincenzo was incapable of contacting his parents.

43. I accept that despite Vincenzo advising PH staff he no longer wanted his parents involved in his healthcare or discharge, PH treatment team nonetheless believed he would contact his parents on discharge to arrange support.

Webster Pack

- It is clear from the medical record that an occupational therapist queried whether Vincenzo ought to be discharged home with a Webster Pack. However, the pharmacists involved in Vincenzo's care did not form such an opinion. Further, in circumstances where the bacteraemia that were found post-mortem would not have been covered by Vincenzo's prescribed antibiotic, it is submitted that it is not relevant to the circumstances of Vincenzo's death whether or not the antibiotic regime was (a) understood by Vincenzo, or (b) whether he took it properly or at all (which is not known by PH). It is further noted that the other medications and whether they were taken or not, are seemingly not related to his cause of death.

44. I accept this submission.

Conclusion

- It is respectfully submitted that although Vincenzo had a mild cognitive impairment and was assisted with meals and reminders for medication by his parents, he was reasonably thought to be competent to make his own decisions about his healthcare. This was based on the fact that:

  a. All clinicians and staff who cared for him, many of whom saw him over the duration of his long admission, considered him to be competent and did not consider the need for a cognitive assessment; and

  b. Prior to his admission he had lived alone, albeit with assistance from his parents.

- Accordingly, it is submitted that it was reasonable not to perform a cognitive assessment or test the competency of Vincenzo, prior to his discharge or at any time during his care.

- Vincenzo had withdrawn his consent for staff to discuss his healthcare with his parents, albeit he indicated that he would continue to involve them in his activities of daily living. In those circumstances, staff were not entitled to contact his parents about his discharge. Further, staff did not consider that they needed to contact his parents in circumstances where Vincenzo indicated that he would do so. Staff had no reason to believe that upon leaving the hospital, Vincenzo would not do as he had indicated.

- It is submitted that it cannot be known whether the tragic outcome would have been different if Vincenzo's parents had been aware of his discharge from hospital. However, in circumstances where Vincenzo presented as competent and had specifically refused staff to discuss his healthcare with his parents, it would have been inappropriate for staff to act contrary that decision.

45. I thank Counsel for the above comprehensive submissions. I now turn to my Findings.

Vincenzo's parents should have been informed of his discharge

46. At the outset, I acknowledge that absent speculation, I am unable to find that the tragic outcome would have been averted had Vincenzo's parents been appraised of discharge. The anti-biotic regime would not have been effective against the highly aggressive strain which caused Vincenzo's death. It follows, my Findings are not to be construed as causative of death.

47. Vincenzo was admitted with pre morbid supports which he described as his mother supports him with "everything". Including medication management which including personally setting up and alternatively, phoning him daily to remind him.

48. The PH team approved his discharge in the genuine belief Vincenzo would contact his parents to fully support him. The team was aware his need for their support on discharge was significant. He was required to take lifesaving anti-biotics 4 times per day.

49. I turn to the evidence of the final witness called at inquest – the General Surgeon. He was the final witness called. He corroborated the consistent evidence of clinical and allied health staff at inquest - that Vincenzo would contact his parents on discharge. He explained this belief was the reason Vincenzo's parents were not contacted on

discharge, and not privacy considerations. He was aware non-compliance with the oral anti-biotic regime on discharge, could have fatal consequences.

50. He acknowledged Vincenzo's explanation to clinical members of the treatment team for refusing intravenous anti-biotics was spurious. Further, he understood Vincenzo's parents provided him significant support, importantly in respect to medication management.

51. For the above reasons, he considered parental support pivotal to the discharge plan. However, he knew of no reason to doubt Vincenzo would contact his parents as indicated.

52. In evidence, the General Surgeon first became aware that on the 5 December, a nursing note ('the nursing entry') recorded an observation that Vincenzo injected insulin through his clothing. The entry recorded the nurse immediately counselled Vincenzo against this practice, however she subsequently observed him repeating the practice. There is no evidence the nurse was aware of the imminent discharge.

53. The General Surgeon was shocked to hear this evidence. Without equivocation, I accept his emphatic denial of being informed of the clothing self-injection. Had he been told, he would have been "troubled" and "worried".

54. He most certainly would have acted upon the information and spoken to Vincenzo. He agreed in evidence in consideration of all the risks (of non-compliance), the nursing entry would have been the "trigger" to re-visit the issue.

55. I accept the General Surgeon's evidence that the sole reason Vincenzo's parents were not advised of the discharge, was the belief Vincenzo would call them – not privacy concerns. I have no doubt the nursing entry would have triggered an immediate response from the General Surgeon – namely re-visited the issue of contacting Vincenzo's parents.

56. Further, having observed the General Surgeon in the witness box, I do not envisage he would encounter any difficulty explaining to Vincenzo why he required staff to notify his parents of discharge. Not because staff disbelieved Vincenzo, but to explain that his health and welfare was their primary concern and it was crucial his parents were aware of the discharge, and the crucial importance of medication compliance.

57. It appears the nursing entry was inadvertently not identified in the voluminous medical record until the General Surgeon was giving evidence. It is likely that no member of the treating team at inquest knew of the nursing entry. I have previously found that each member of the team gave full and frank evidence. Further, that their dedicated focus was Vincenzo's health and welfare. I have no doubt had they known Vincenzo was injecting insulin through his clothing, they would have shared the concern of the General Surgeon. Vincenzo's parents would have been notified of discharge.

58. In all the circumstances, I find PH should have informed Vincenzo's parents of discharge on 6 December 2016.

CAUSE OF DEATH

59. In a supplementary report provide by Dr Dodd forensic pathologist, he explained that the absence of S. Aureus in the pre-discharge cultures and post mortem blood cultures "virtually excluded" as an active pathogen.

60. Of note, S. Aureus was not grown either hospital or post mortem blood cultures. Further, the duration of antibiotics Vincenzo had already had at the time of discharge would have substantially treated the S. Aureus infection, including "clearing" the blood of bacteria. However, a prolonged course of antibiotics is indicated, as was prescribed in recognition that penetration to and clearance of deep-seated infection (ie psoas abscess) is very difficult. An incomplete course of antibiotics may lead to relapse of the infection. The residual fluid in the abscess at post mortem was sent for microbiological culture so it is impossible to exclude the fact that there was residual S Aureus infection present at that site. The absence of S Aureus in post mortem blood does suggest the absence of significant S Aureus bacteraemia at that time but given the sampling error associated with single bacterial cultures it is impossible to exclude.

61. The other bacteria (Serratia Marcescens and Escherichia Coli) found at autopsy are opportunistic and aggressive bacteria. At the time of Vincenzo's death, he was a man who suffered a psoas abscess who contracted an aggressive, opportunistic sepsis which likely caused his death. Importantly, the sepsis would unlikely be sensitive to the antibiotic prescribed (clindamycin), and, thus, non-compliance with the antibiotic regimen could not be said to have contributed or caused the tragic outcome.

62. I am therefore satisfied that even if Vincenzo (perhaps with the assistance of his parents) had resolutely continued to take the clindamycin alone as the purported S. Marcescens or E. Coli sepsis had developed, the tragic outcome would not have been averted.

FINDINGS

Having considered all the evidence, in the circumstances described above:

63. I find that Vincenzo Bellina, born on 3 March 1968 died on at 2299 Point Nepean Road, Rye 3941, from: 1(a) Septicaemia in a man with a Psoas Abscess

2 Diabetes Mellitis.

64. I make no adverse finding against any individual involved in Vincenzo's care.

65. I express my condolences to Vincenzo's family.

66. Pursuant to section 73(1) of the Coroners Act 2008, I order this finding be published on the internet.

67. I direct that a copy of this finding to the following:

(a) Vincenzo's parents

(b) Solicitors on behalf of PH

Signature:

Coroners Court of Victoria

MR JOHN OLLE

CORONER

Date: 17 July 2019