IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2020 002828

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

Section 67 of the ***Coroners Act 2008***

Findings of:	Coroner David Ryan
Deceased:	Kim Michelle Cooper
Date of birth:	17 October 1972
Date of death:	27 May 2020
Cause of death:	1(a) Mixed drug toxicity (pregabalin, oxycodone and mirtazapine)
Place of death:	30 Hastings Crescent, Broadmeadows, Victoria, 3047

INTRODUCTION

1. On 27 May 2020, Kim Michelle Cooper was 47 years old when she suffered a fatal overdose at home. At the time of her death, Ms Cooper lived in Broadmeadows with her beloved dog, Sparks. She is survived by her mother Carmel Cooper and siblings Tammie, Brett, Tony and Kellie.

BACKGROUND

2. Ms Cooper had previously worked as a disability support worker but subsequently ceased work after she was injured in the course of her employment. She received support at home for cleaning and laundry which was funded by the National Disability Insurance Scheme.[1]

3. Ms Cooper's medical history included severe anxiety, depression, asthma, and a back injury.[2] Her mother noted that Ms Cooper often complained of pain and frequently attended her local medical clinic. She also noted her daughter's tendency to take medications in greater quantities than prescribed. Ms Cooper had a prior history of illicit drug use, including heroin, marijuana, and methylamphetamine.[3]

4. Ms Cooper consulted multiple general practitioners (**GPs**) at the Barry Road Medical Centre (**the Clinic**) in Campbellfield from March 2019 until her death. She was at various times prescribed mirtazapine, oxazepam, diazepam, pregabalin, codeine, zolpidem, temazepam and oxycontin for her presenting issues, which included chronic pain.[4]

5. In November 2019, the Clinic was notified by the Department of Health and Human Services that Ms Cooper had been identified under the prescription shopping program.[5]

6. Throughout 2020, Ms Cooper reported difficulties sleeping for which she was prescribed zolpidem (7 tablets) in January and temazepam (25 tablets) in May 2020. She continued to be prescribed regular mirtazapine and oxazepam for her mental health and pregabalin for pain.[6]

7. In January 2020, Ms Cooper was referred for an ultrasound for a suspected abscess in her left breast.[7]

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[1] Statement of Carmel Cooper dated 24 November 2020.
[2] Statement of Dr Ali Al-Rubaye dated 1 October 2020.
[3] Statement of Carmel Cooper dated 24 November 2020.
[4] Statement of Dr Ali Al-Rubaye dated 1 October 2020.
[5] Statement of Dr Ali Al-Rubaye dated 1 October 2020.
[6] Statement of Dr Ali Al-Rubaye dated 1 October 2020.
[7] Statement of Dr Ali Al-Rubaye dated 1 October 2020.

8. In February 2020, Ms Cooper was referred to an addiction medicine specialist for her reliance on prescription medications. However, she did not attend the appointment.[8]

9. In March 2020, Ms Cooper and her GP formulated a mental health plan, and she was referred for counselling. However, she only attended one appointment.[9]

10. On 12 May 2020, Ms Cooper saw her GP and reported shoulder pain with limited range of motion. She was referred for an X-ray and ultrasound. She was prescribed Panadeine Forte and pregabalin for pain, and oxazepam for anxiety.[10]

11. On 19 May 2020, Ms Cooper complained of continuing difficulties sleeping, stating that over-the-counter medications did not assist her. She was encouraged to make lifestyle changes and was prescribed temazepam.[11]

12. She returned to the Clinic on 22 May 2020 to discuss the results of her tests. The GP explained that they revealed a damaged C7 vertebra and nerve irritation with a high possibility of malignant (cancerous) lesion, which may have explained her neck and shoulder pain. She was referred to the Austin Hospital for management of the lesion and prescribed oxycodone for pain.[12]

THE CORONIAL INVESTIGATION

13. Ms Cooper's death was reported to the coroner as it fell within the definition of a reportable death in the *Coroners Act 2008* (**the Act**). Reportable deaths include deaths that are unexpected, unnatural or violent or result from accident or injury.

14. The role of a coroner is to independently investigate reportable deaths to establish, if possible, identity, medical cause of death, and surrounding circumstances. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.

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[8] Statement of Dr Ali Al-Rubaye dated 1 October 2020.
[9] Statement of Dr Ali Al-Rubaye dated 1 October 2020; Statement of Mona S Shafiq, undated.
[10] Statement of Dr Ali Al-Rubaye dated 1 October 2020.
[11] Statement of Dr Ali Al-Rubaye dated 1 October 2020.
[12] Statement of Dr Ali Al-Rubaye dated 1 October 2020; Medical records for the Barry Road Medical Centre.

15. Under the Act, coroners also have the important functions of helping to prevent deaths and promoting public health and safety and the administration of justice through the making of comments or recommendations in appropriate cases about any matter connected to the death under investigation.

16. Victoria Police assigned an officer to be the Coroner's Investigator for the investigation of Ms Cooper's death. The Coroner's Investigator conducted inquiries on my behalf, including taking statements from witnesses – such as family, the forensic pathologist, treating clinicians and investigating officers – and submitted a coronial brief of evidence. Further statements were also obtained from GPs at the Clinic.

17. This finding draws on the totality of the coronial investigation into the death of Ms Cooper including evidence contained in the coronial brief. While I have reviewed all the material, I will only refer to that which is directly relevant to my findings or necessary for narrative clarity. In the coronial jurisdiction, facts must be established on the balance of probabilities.[13]

MATTERS IN RELATION TO WHICH A FINDING MUST, IF POSSIBLE, BE MADE

Circumstances in which the death occurred

18. On 24 May 2020, Ms Cooper's disability support worker, Rosa Nasic, confirmed she would attend Ms Cooper's house on 27 May 2020.[14] Ms Cooper saw her mother that day who recalled that although she appeared to be in pain, she seemed well.[15]

19. On 25 May 2020, Ms Cooper returned to the Clinic. She stated that she was still awaiting an appointment with the hospital and reported severe pain and sleeping difficulties. She was prescribed oxycodone and pregabalin.[16] Ms Cooper spoke to her mother that evening and she was distressed and scared about the likely tumour in her neck. Her mother encouraged her to come visit the following day.[17]

20. On 26 May 2020, Mrs Cooper telephoned her daughter, but received no answer.[18]

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[13] Subject to the principles enunciated in *Briginshaw v Briginshaw* (1938) 60 CLR 336. The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals unless the evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

[14] Statement of Rose Nasic dated 4 December 2020.

[15] Statement of Carmel Cooper dated 24 November 2020.

[16] Statement of Dr Ali Al-Rubaye dated 1 October 2020.

[17] Statement of Carmel Cooper dated 24 November 2020.

[18] Statement of Carmel Cooper dated 24 November 2020.

21. At about 10.00am on 27 May 2020, Ms Nasic arrived at Ms Cooper's home and knocked on the door, but there was no answer. She could hear Sparks barking inside and Ms Cooper's car was parked at the property. Ms Nasic then contacted emergency services.[19]

22. Victoria Police Officers subsequently attended and gained access to the property. They found Ms Cooper lying on her bed, unresponsive and cool to the touch. Ambulance Victoria paramedics subsequently attended and confirmed she was deceased at 1.14pm.[20]

23. Inside the home, police found numerous medications prescribed to Ms Cooper, including oxycodone, pregabalin, and mirtazapine. Discrepancies between the dates on which they were dispensed, dosage instructions and the remaining quantities of medications located by police suggested she was consuming prescription medications at higher doses than she had been prescribed.[21]

Identity of the deceased

24. On 5 June 2020, Kim Michelle Cooper, born 17 October 1972, was identified pursuant to a determination by Coroner English based upon fingerprint identification.

25. Identity is not in dispute and requires no further investigation.

Medical cause of death

26. Fellow Forensic Pathologist, Dr Mohamed Hussain Mohamed Ameen Izzath from the Victorian Institute of Forensic Medicine (**VIFM**) conducted an autopsy on 3 June 2020 and provided a written report of his findings dated 25 September 2020.

27. The post-mortem examination showed mild to moderate decompositional changes and morbid obesity. There was no evidence of any overt injuries or natural diseases which may have caused or contributed to death.

[19] Statement of Rose Nasic dated 4 December 2020.
[20] Statement of Senior Constable Gavin Williams dated 16 November 2020; Ambulance Victoria Verification of Death Form.
[21] Statement of Senior Constable Gavin Williams dated 16 November 2020.

28. Toxicological analysis of post-mortem samples identified elevated levels of pregabalin (32mgL),[22] oxycodone (0.3mgL)[23] and mirtazapine (0.4mgL)[24] and therapeutic levels of benzodiazepines (diazepam[25] and oxazepam[26]). These drugs cause central nervous system depressive effects individually and when combined, their effect is multiplied due to the synergistic effect.

29. In Ms Cooper's case, the combined effects of the drugs could have significantly suppressed the central nervous system resulting in failure of respiratory/cardiac centres and leading to death. Toxicological analysis also revealed the presence of delta-9-tetrahydraconibannol, indicative of recent cannabis use.

30. Dr Izzath provided an opinion that the medical cause of death was 1(a) Mixed drug toxicity (pregabalin, oxycodone and mirtazapine).

31. I accept Dr Izzath's opinion.

FAMILY CONCERNS

32. On 24 September 2020, Ms Cooper's sister sent an email to the Court expressing concern about the prescribing practices of her treating clinicians which led to her having access to an inappropriate amount of medication. As a result of these concerns and with the assistance of the Coroners Prevention Unit (**CPU**),[27] further statements were obtained from Ms Cooper's treating clinicians at the Clinic in relation to the prescription of medication to her in the weeks leading to her death.

Oxycodone

33. In the five days prior to her death, Ms Cooper was prescribed oxycodone in escalating doses on three separate occasions: twice by Dr Ali Al-Rubaye (on 22 May and 25 May 2020) and once by Dr Hassan Hamie (on 23 May 2020). Dr Al-Rubaye prescribed 20 tablets of 5mg on 22 May 2020, and 28 tablets of 40mg on 25 May 2020. The directions for consumption were

[22] Pregabalin is a GABA and gabapentin analogue clinically used for partial treatment of seizures and neuropathic pain.
[23] Oxycodone is a semi-synthetic opiate narcotic analgesic related to morphine used clinically to treat moderate to severe pain.
[24] Mirtazapine is indicated for treatment of depression.
[25] Diazepam is a benzodiazepine derivative indicated for anxiety, muscle relaxation and seizures.
[26] Oxazepam is a benzodiazepine indicated for anxiety.
[27] The Coroners Prevention Unit (CPU) was established in 2008 to strengthen the prevention role of the coroner. The unit assists the coroner with research in matters related to public health and safety and in relation to the formulation of prevention recommendations. The CPU also reviews medical care and treatment in cases referred by the coroner. The CPU is comprised of health professionals with training in a range of areas including medicine, nursing, public health and mental health.

for Ms Cooper to take one tablet, twice daily on both scripts. Dr Hamie prescribed 28 tablets of 15mg on 23 May 2020, and also directed Ms Cooper to take one tablet, twice daily.

34. All three scripts were issued without repeat. The clinical indication for prescribing oxycodone was to treat severe neck pain. The amount of oxycodone prescribed and dispensed to Ms Cooper was equivalent to 328mg daily, vastly more than even the highest directed dose of 80mg per day.

35. Neither Dr Hamie nor Dr Al-Rubaye applied for a permit under Schedule 8 to the *Drugs, Poisons and Controlled Substances Act 1981* to prescribe oxycodone to Ms Cooper. Dr Hamie stated that he did not apply for a permit as he only prescribed oxycodone to Ms Cooper once and there was a good therapeutic reason for the prescription, being pain caused by suspected cancer. Dr Al-Rubaye stated that he did not apply for a permit as he thought that it was only required if he had intended to prescribe oxycodone for more than eight weeks. He has acknowledged that he should have applied for a permit, something of which he was unaware at the time and regarding which he has subsequently undertaken education and made changes to his practice to ensure that he is compliant with his obligations.

36. The SafeScript real-time prescription monitoring system became available for use by Victorian doctors and pharmacists in October 2018. The mandatory requirement to check SafeScript prior to writing or dispensing prescriptions for drugs monitored through the system commenced on 1 April 2020. Oxycodone is a drug monitored by SafeScript.

37. Dr Hamie and Dr Al-Rubaye have both acknowledged that they did not check SafeScript as required prior to prescribing oxycodone to Ms Cooper. Dr Hamie stated that he did not do so because "*on the information available*" he was "*satisfied that medications were being prescribed appropriately*" by his colleagues. Further, he stated that he "*was not concerned that Ms Cooper was being irresponsible with her medications*".[28] Dr Al-Rubaye has stated that he regrets not checking SafeScript, but he considered there was a clear clinical indication for prescribing opioids for Ms Cooper's pain as it may have been caused by cancer. Dr Al-Rubaye has since reflected on his prescribing to Ms Cooper and has undertaken education through his medical defence organisation.[29]

[28] Statement of Dr Hassan Hamie dated 12 April 2022.
[29] Statement of Dr Ali Al-Rubaye dated 13 May 2022.

Pregabalin

38. Between 2 March 2020 and her death on 27 May 2020, Ms Cooper was issued with nine pregabalin scripts by five different clinicians, as follows:

    a) Dr Mohamed Habib prescribed 56 tablets of 300mg pregabalin on 2 March 2020. This was the only time Dr Habib prescribed pregabalin to Ms Cooper in the period proximate to her death. The script was issued without repeat and directed Ms Cooper to take two tablets per day.

    b) Dr Hamie prescribed 56 tablets of 300mg pregabalin on two occasions (on 24 March 2020 and 2 May 2020). Both scripts were issued without repeat. On the first script, Dr Hamie directed Ms Cooper to take two tablets per day, and on the second script he directed her to take three tablets per day.

    c) Dr Malek Kallab of Mediq Medical Centre Broadmeadows prescribed 56 tablets of 300mg pregabalin to Ms Cooper on two separate occasions (on 24 March 2020 and 22 May 2020). Both scripts were issued without repeat. It was not clear from the available records exactly how much pregabalin Dr Kallab directed Ms Cooper to take each day but based on the prescribing of other clinicians it is reasonably assumed that it was not more than two to three tablets per day.

    d) Dr Al-Rubaye prescribed 56 tablets of 300mg pregabalin on three occasions (on 14 April 2020, 12 May 2020 and 25 May 2020). All three scripts were issued without repeat. On the first and second scripts, he directed Ms Cooper to take two tablets per day, and on the third script he directed her to take three tablets per day.

    e) Dr Sameh Georgy of High Street Clinic Preston prescribed 56 tablets of 150mg pregabalin on 23 May 2020. This was the only time Dr Georgy prescribed pregabalin to Ms Cooper in the period proximate to her death. The script was issued without repeat and directed her to take three tablets per day.

39. The clinical indication for prescribing pregabalin in every case appears to have been for pain relief. Therefore, in the three-month period prior to her death, Ms Cooper was likely directed to take between 450mg and 900mg pregabalin daily. However, she was actually prescribed and dispensed an amount of pregabalin equivalent to approximately 1587mg daily, almost two to four times the amount directed by her various treating clinicians.

40. Pregabalin is not a drug monitored by SafeScript and accordingly there was no legal requirement for her treating clinicians to check the system prior to prescribing it to her.

41. Both Dr Hamie and Dr Al-Rubaye stated that they were concerned about the amount of pregabalin prescribed to Ms Cooper and that they advised her of the risks associated with taking pregabalin with benzodiazepines. Dr Al-Rubaye stated that his focus was upon encouraging her to reduce her reliance on her medications. Further, Dr Hamie referred Ms Cooper to an addiction specialist.[30]

Mirtazapine

42. Mirtazapine was prescribed to Ms Cooper on three occasions in the three months prior to her death; by Dr Kallab on 25 March 2020 and 22 May 2020 (45mg), and by Dr Al-Rubaye on 14 April 2020 (30mg). All three scripts were for 30 tablets without repeat and both doctors directed Ms Cooper to take one tablet nightly. The clinical indication for the prescriptions was to treat depression. Therefore, the amount of mirtazapine prescribed and dispensed to Ms Cooper in the period proximate to her death was equivalent 57mg daily, slightly more than the amount directed by her clinicians.

FINDINGS AND CONCLUSION

43. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:

    a) the identity of the deceased was Kim Michelle Cooper, born 17 October 1972;

    b) the death occurred on 27 May 2020 at 30 Hastings Crescent, Broadmeadows, Victoria, 3047, from mixed drug toxicity (pregabalin, oxycodone and mirtazapine); and

    c) the death occurred in the circumstances described above.

[30] Statement of Dr Ali Al-Rubaye dated 13 May 2022; Statement of Dr Hassan Hamie dated 12 April 2022.

44. Having considered all of the circumstances, I am satisfied that her death was the unintended consequence of her deliberate use of prescription medications. The failure of a number of her treating clinicians to comply with legal requirements to apply for permits under Schedule 8 to the *Drugs, Poisons and Controlled Substances Act 1981* and check the SafeScript system before prescribing oxycodone represents a missed opportunity which may have prevented Ms Cooper's death.

COMMENTS

Pursuant to section 67(3) of the Act, I make the following comments connected with the death.

45. Checking SafeScript provides doctors and pharmacists with accurate prescribing information in relation to targeted drugs to inform safe treatment decisions and to improve clinical practice.

46. Ms Cooper was able to obtain a huge amount of pregabalin in the months leading to her death. If pregabalin had been included as a drug monitored by SafeScript at the time of her death, it would have been apparent to any clinician who checked the system that she was being dispensed quantities of the drug which far exceeded the basis on which it had been prescribed.

47. Victorian coroners have previously made comments about the growing evidence of the abuse of pregabalin and recommended that it be included in the drugs monitored by the SafeScript system. The Department of Health has advised that it is considering the issue of whether pregabalin should be included.

I convey my sincere condolences to Ms Cooper's family for their loss.

Pursuant to section 73(1A) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.

I direct that a copy of this finding be provided to the following:

Carmel Cooper, Senior Next of Kin

Dr Hassan Hamie, Barry Road Medical Centre

Dr Ali Al-Rubaye, Barry Road Medical Centre

Mr Peter Kelly, Melbourne Health

Senior Constable Gavin Williams, Coroner's Investigator

Signature:

Coroner David Ryan

Date : 08 August 2022

NOTE: Under section 83 of the ***Coroners Act 2008*** ('the Act'), a person with sufficient interest in an investigation may appeal to the Trial Division of the Supreme Court against the findings of a coroner in respect of a death after an investigation. An appeal must be made within 6 months after the day on which the determination is made, unless the Supreme Court grants leave to appeal out of time under section 86 of the Act.