



## FINDING OF INQUEST

*An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 26<sup>th</sup> day of June 2018, the 31<sup>st</sup> day of January 2019 and the 23<sup>rd</sup> day of October 2019, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the deaths of Erin Paige Murray and Amy Jean Patterson.*

*The said Court finds that Erin Paige Murray aged 25 years, late of 4 Peyton Place, Hackham West, South Australia died at Hackham West, South Australia on or about the 25<sup>th</sup> day of July 2014 as a result of pentobarbitone toxicity.*

*The said Court finds that Amy Jean Patterson aged 30 years, late of 81A Sixth Avenue, St Peters, South Australia died on or about the 16<sup>th</sup> day of October 2015 as a result of pentobarbitone toxicity. The said Court finds that the circumstances of their death were as follows:*

### **1. Introduction**

- 1.1. These are the Court's findings in relation to a joint inquest held into the cause and circumstances of the deaths of Erin Paige Murray aged 25 years and Amy Jean Patterson aged 30 years. There is no evidence that the two deceased women were known to each other. However, there are a number of features of commonality between their causes of death and the circumstances in which they died. Both women died from pentobarbitone toxicity. I will mention something about pentobarbitone in a moment, but suffice it to say at this point it is a drug that is commonly used to anaesthetise or euthanise animals and has a clear and well-known association with the practice of the

veterinary treatment of animals. Both women had an association with the practice of the veterinary treatment of animals.

- 1.2. The substance which caused the death of both women is occasionally referred to as pentobarbital. In its liquid form it is known commercially as Lethabarb. References in these findings to pentobarbitone, pentobarbital or Lethabarb are to be taken as references to the same substance.
- 1.3. Ms Murray was a veterinary science student who had obtained her basic veterinary science degree. At the time of her death she was training for her Doctorate of Veterinary Medicine which is the qualification that would have enabled her to practise as a veterinary surgeon. As part of her doctorate course Ms Murray had recently undertaken work experience in a veterinary hospital that was accredited pursuant to the Veterinary Practice Act 2003 (the Act). That work experience had concluded prior to her death.
- 1.4. Ms Patterson was a qualified veterinary surgeon who practised at a different veterinary practice. I understand that the clinic in question was not an accredited veterinary hospital pursuant to the Act. The distinguishing feature of a veterinary hospital as distinct from other veterinary practices is that a veterinary hospital has the ability to keep animals on the premises overnight. As will be seen there are certain implications arising out of the distinction between accredited veterinary hospitals and other veterinary clinics in terms of the reach of governance imposed by the Act.
- 1.5. Ms Murray died at her home sometime during the night of 25 and 26 July 2014. She had last been seen by her father in the bedroom that she occupied within a granny flat situated in the rear yard of the family premises. The time was about 7pm on Friday 25 July 2014. At about 2pm the following day her father discovered her body lying in her bed. The evidence demonstrated that during the night she had orally ingested pentobarbitone from a glass that was found within the room that she occupied. A residue of a substance containing pentobarbitone was found in the bottom of that vessel. It appeared and I find that this was the residue of what had originally been a liquid preparation within the vessel. Her ingestion of this substance caused her death. In my opinion the evidence did not establish the source of this substance. Ms Murray did not leave a note.

- 1.6. Ms Patterson was employed as a full-time veterinary surgeon at a veterinary practice. She was located deceased within the practice premises at about 7:25am on Saturday 17 October 2015. She had last been seen the previous night at her home by a housemate. She had gone to bed having had a shower. When discovered deceased and alone within the veterinary practice premises the following morning, her body had an intravenous line running into her arm via a cannula. The line was connected to a drip bag containing liquid pentobarbitone. This substance caused her death. Although when last seen by her housemate she appeared to have been in a frame of mind that was outwardly unremarkable, earlier that day Ms Patterson had sent a text message to her parents in Melbourne stating *'I can't do this anymore. I'm going to kill myself. I love you both'*. Naturally Ms Patterson's parents were deeply disturbed by this and had spoken to their daughter about the message. They had also spoken to Ms Patterson's housemates about the level of distress that Ms Patterson was experiencing. Ms Patterson did not leave a note.
- 1.7. I find that Ms Patterson obtained the lethal preparation from within the veterinary practice in which she was located deceased. She had travelled to and had entered the premises for the purpose of obtaining and using that substance to end her life. She obviously had access to the substance from its place of storage. This appears to have been an unlockable drawer in a preparation room that would not have been accessible to the public.
- 1.8. On the other hand, as earlier indicated, I was not satisfied as to the origin of the preparation that Ms Murray had sourced in advance of her ingesting the substance. Although she had performed recent work experience at a veterinary practice, the evidence did not establish that she necessarily obtained it from that practice. Ms Murray appears to have had an ability to stockpile drugs from veterinary sources. In her room were located a number of non-lethal veterinary drugs that had as their possible origin places associated with animal husbandry in the south east of the State. I need not go into detail about that except to say that it would be questionable whether her possession of these drugs had a legitimate basis. It is not suggested that Ms Murray necessarily sourced the pentobarbitone from that region. While the packaging of the non-lethal veterinary drugs suggested an identifiable source, investigating police did not locate any packaging, bottle, vessel or other evidence pointing to the source of the pentobarbitone. One thing can be inferred and it is that as a student Ms Murray would

not have had authorised access to pentobarbitone wherever she sourced it. As will be seen, at the time with which this inquest is concerned there were certain storage requirements for liquid pentobarbitone as they applied to veterinary practices and other places where the substance might be stored. Those requirements fell short of insistence that the substance be kept in a locked container or safe to which Ms Murray would not have had authorised access. I think it more probable than not and I therefore infer that Ms Murray had been able to source the substance despite the storage requirements and arrangements that had been in place at the location at which she sourced it. It is unlikely that she sourced it from a locked container. I think it likely and infer that she obtained it from a place that had a connection with animal treatment. I do not think it likely that Ms Murray sourced it on a black market or from an overseas source. The fact of her connection with the veterinary profession is too coincidental to be ignored.

1.9. In any event there was no evidence that in either of the two veterinary practices with which the deceased had their respective associations the lethal substance that both women used had been unlawfully or inappropriately stored in terms of the then applicable legal and professional requirements. The stringency of the legal and professional requirements was a matter that occupied most of this Court's time. The question is whether they are stringent enough to prevent access to this substance by persons who might be associated with veterinary practices, be they veterinary surgeons, nurses or other persons working within those premises. This inquest was in large part devoted to that issue and in particular to whether deaths of this nature can be prevented in the future.

1.10. There is no evidence of the involvement of any other person in either death.

1.11. The evidence demonstrated that both women had experienced mental health difficulties at various stages of their lives. Given the lethality of pentobarbitone and having regard to their undoubted knowledge of its properties through their association with veterinary science, there can be no conclusion other than that both women ingested the substance with the intent to end their own lives. I so find.

## **2. The drug pentobarbitone**

2.1. Pentobarbitone is a drug the sole use of which in these times is for the anaesthetising and euthanasia of animals. It is equally lethal in respect of humans. It is not necessary to recite here the quantity of the substance that would be required to kill a human being.

Lethabarb generally comes in 450ml bottles. I have also seen reference to bottles of 500ml. It is injectable. When taken orally the substance is also lethal as was the case with Ms Murray. It is understood that the drug can come in tablet form, but these are no longer readily available or used. For obvious reasons liquid Lethabarb is kept, stored and used in veterinary practices.

- 2.2. There have been a number of suicides committed in Australia over the years by persons ingesting Lethabarb that was sourced from a veterinary practice. It has been said that the incidence of suicide within the veterinary profession and industry in general is greater than within the general community. Suicide by the ingestion of pentobarbitone was the subject of a coronial inquest conducted in Queensland in 2016 and 2017. The deceased in that matter was a dog groomer. She was employed in a veterinary clinic in which the drug had been stored in an unlocked cupboard in a treatment room. The deceased gained access to it and committed suicide by way of a cannula and line, the same method used by Ms Patterson. At the conclusion of that inquest the coroner made certain recommendations in relation to storage requirements for Lethabarb and in respect of the scheduling of the substance by the Therapeutic Goods Administration (TGA) which is a federal entity. In the event the key recommendation which I shall mention in due course was not implemented for reasons that are difficult to understand.
- 2.3. Pentobarbitone in its liquid form is a Schedule 4 drug pursuant to the Commonwealth Poisons Standard. This means that it must be stored in an area where the public do not have access. In the two practices that were the subject of examination during the course of this inquest, the substance was stored in an area where the public did not have access in full accordance with Schedule 4. Naturally, Ms Patterson would have had access to this substance given her position within the practice in which she was employed. It is easy to conceive of circumstances in which Ms Murray, in her capacity as a veterinary science student undertaking her doctorate degree, would have had access to relevant areas to which the public would not have had access but which accommodated this substance. She clearly had access to other veterinary drugs that did not have as their source the practice in which she had recently undertaken work experience.
- 2.4. The Schedule 4 requirements are to be contrasted with the requirements of Schedule 8 which relates to controlled drugs. Pentobarbitone is listed as a Schedule 8 drug, but only in tablet form. If a drug is scheduled under Schedule 8 it is required to be stored in a locked container or safe at all times unless in use. In neither practice the subject of

this inquest was the Lethabarb stored in a locked container or safe when not in use. I infer that when Ms Murray sourced it, whatever the source, she did not source it from a locked container or safe. There is no reason to suppose that as a student she would have had authorised access to such a container at any place with which she had a connection in her occupation as a student.

2.5. I have already referred to an inquest that was conducted in Queensland in 2016 and 2017. The finding of the coroner records that in that case the Lethabarb had been stored in the veterinary surgery in an unlocked cupboard which was at a high level within a treatment room. This was in accordance with Schedule 4. The treatment room was unlocked, but the chances of a member of the public accessing the treatment room without being seen by staff was minimal. On the other hand, all staff at the surgery had access to the unlocked cupboard during business hours. There were no protocols in place governing access by staff to the cupboard. At the conclusion of the inquest the coroner recommended that the TGA up-schedule pentobarbitone in injectable form to a Schedule 8 drug in the Commonwealth Poisons Standard. It is that recommendation that was not implemented by the TGA. Thus at the date of publication of these findings pentobarbitone in its injectable form remains as a Schedule 4 drug, the only storage requirement being that it be stored in an area where the public do not have access.

2.6. I shall later discuss evidence that was given in relation to requirements that have been imposed in this State by the Veterinary Surgeons Board of South Australia and which are independent of the requirements pursuant to scheduling under the Commonwealth Poisons Standard.

### **3. The proposal to up-schedule pentobarbitone**

3.1. In 2016 and 2017 delegates of the Secretary to the Department of Health of the Australian Government made interim and then final decisions in relation to scheduling of certain drugs to which the Standard for the Uniformed Scheduling of Medicines and Poisons (the Commonwealth Poisons Standard) were considered.

3.2. The proposal at that time was for the up-scheduling of pentobarbitone, when packed and labelled for injection, from Schedule 4 to Schedule 8. The reference to packed and

labelled for injection is a reference of course to the liquid preparation. The proposal was said to have been:

'... due to the reported misuse of injectable pentobarbital<sup>1</sup> and its involvement in suicides and whether the greater access control of Schedule 8 is more appropriate.'<sup>2</sup>

3.3. The report of the delegates listed arguments both for and against the proposal. I will refer to some of those arguments in a moment.

3.4. On 2 February 2017 the delegates' interim decision was documented. The decision was that the current scheduling of pentobarbitone remain in force. The reasons for the interim decision were as follows:

- The delegates acknowledge and agree with the committee's advice.
- Pentobarbital is not registered for use in humans. It has a narrow therapeutic window and a significant risk of central nervous system (CNS)/respiratory depression. There is potential for misuse for suicidal purposes. The lethal dose for humans is approximately X (*precise amount deleted*).
- Pentobarbital is a cheap and efficient medicine, and is the preferred agent and is widely used for the humane euthanasia of animals in multiple settings. The intended effect is death by CNS and respiratory depression for animals that are suffering.
- Pentobarbital in 500 mL bottles is widely used due to the large doses required (predominately in the field) to humanely euthanize large animals or multiple livestock. From a practical perspective, the delegates note that veterinarian access to parenteral solution of pentobarbital in 500 mL bottles for field use is required and is consistent with the current Schedule 4 entry.
- A wide range of authoritative organisations opposed the up-scheduling on the basis of reasonable and practical grounds. Impact on intentional suicide is unclear, but was thought to be low when considering the available data of suicides, and the people that were misusing pentobarbital for suicidal purposes.'

3.5. On 21 February 2017 the Coroners Court of Queensland delivered its findings in respect of the inquest that I have mentioned. As seen earlier the Queensland Court recommended that the TGA should up-schedule pentobarbitone in injectable form to Schedule 8 thereby ensuring that it would be housed within a locked container. It will be noted that this recommendation was contrary to the interim decision of the delegates of the Secretary to the Department of Health made on 2 February 2017. The Coroner noted that the TGA had advised the Coroners Court of Queensland that the purpose of

<sup>1</sup> For these purposes pentobarbital can be equated with pentobarbitone

<sup>2</sup> Page 85 of the Interim decisions & reasons for decisions by delegates of the Secretary to the Department of Health dated 2 February 2017

the delegates' interim decision was to provide more clarity around the intent of the delegates, that there was still scope for the delegates to accept further submissions and that the recommendations of the Coroners Court of Queensland would be considered by the delegates prior to the making of their final decision.

3.6. On 23 March 2017 the delegates published their final decision and in doing so stated as follows:

'The delegates have confirmed the interim decision and reasons for the decision as no evidence has been received to alter the interim decision. The delegates' final decision is that the current scheduling for pentobarbital remains appropriate and that state and territory governments consider standardisation of the controls under their legislation. Reasons for the final decision additional to those provided from the interim decision include:

- The delegates note the Queensland Coroner's Findings of Inquest in a case relating to a suicide involving pentobarbital delivered on 21 February 2017 and its recommendations. There was no new evidence provided in the findings to alter the interim decision.
- The delegates will write to all state and territory drugs and poisons units requesting they review and standardise the controls applied to the storage and access of Schedule 4 pentobarbital in their jurisdiction.'

It will be noted that in the above statement reference is made to the Queensland Coroner's Findings of Inquest and asserts that there was no new evidence provided in those findings to alter the interim decision. It will be noted, however, that when the coroner's findings are carefully examined it is clear that the deceased dog groomer whose death was the subject of that inquest would not have had access to the lethal substance had it been a Schedule 8 substance. This is due to the fact that if it had been a Schedule 8 substance it would have been in a locked container. I think it can confidently be asserted that a dog groomer would not have access to such a locked container. There is therefore a powerful argument that the deceased's death in that case would have been prevented if the substance had been a Schedule 8 substance, at least as far as that method of suicide is concerned. I make the observation that the same consideration would apply to Ms Murray who must have sourced the pentobarbitone from a container that was not locked as it would have been if it had been a Schedule 8 substance.

3.7. Thus the delegates' assertion that within the Queensland findings there was no new evidence to alter the interim decision that had been made that pentobarbitone should

not be up-scheduled to Schedule 8 is quite inaccurate. The Queensland findings are replete with such evidence - as are these findings.

3.8. It is worthwhile examining some of the objections to the up-scheduling of pentobarbitone to Schedule 8. These reasons included:

- The potential for animal welfare to be compromised if the substance did not have easy access;
- That illicit trade in pentobarbital would still exist and that many reported deaths from the substance were from unknown sources or imported products;
- That moving to Schedule 8 would be onerous for veterinarians in that a larger Schedule 8 safe would be required with associated cost;
- The size of the bottle was not practical for storage and did not fit in existing Schedule 8 safes;
- That better storage arrangements would not necessarily require Schedule 8 scheduling.

3.9. I note also from the Queensland Coroner's findings that the manufacturer of Lethabarb had also opposed up-scheduling of the drug to Schedule 8 for a number of reasons, including:

- New vaults would need to be constructed or expanded together with other additional costs involving transport, alarm systems, cameras and the like resulting in a possible reduced demand for the product which in turn might lead to a decision that the product would no longer be manufactured;
- That additional regulation would place more stress on staff in veterinary clinics because they will be required to account in some detail for a drug that is used repeatedly;
- The difficulties occasioned by veterinarians having to transport the substance in vehicles to locations where they will treat animals;
- That the product would still be available to veterinary surgeons and 'most likely to veterinary nurses';

- That staff other than veterinary surgeons and veterinary nurses working at veterinary clinics would ‘simply find an alternative method of suicide’;
- That up-scheduling would draw more attention to the substance which may result in the drug being the subject of high misuse or theft.

3.10. It appears that the Australian Veterinary Association (AVA) also made a submission to the Coroners Court of Queensland that consisted of opposition to that measure. Its arguments included:

- The need for veterinarians to purchase new and larger drug safes;
- That due to the fact that there are many lethal means available in veterinary practices quite apart from pentobarbitone, rescheduling would not prevent suicide;
- That the potential hazard of misuse by staff other than veterinarians and veterinary nurses, where the drug is sourced from a veterinary practice, is not widespread.

3.11. The Queensland Coroner nevertheless made the recommendation that the drug be up-scheduled to Schedule 8 for the following reasons:

- As a matter of common sense, stricter controls around storage, use and recording of the drug at veterinarian clinics is likely to reduce the number of people who are able to access the drug from those facilities. This in turn is likely to reduce the numbers of suicides by such means;
- The administrative and financial burden of such a change is relatively minor when weighed against the benefit of saving human lives;
- The argument that only a small number of human lives will be saved by this measure fails to recognize the value of human life;
- It should not matter that this drug is intended for animal use and not human use. The fact is that humans are misusing this drug for the purposes of suicide;
- The argument that there are other non-Schedule 8 drugs in veterinary practices and in society in general, which can be misused in suicide fails to understand that pentobarbitone is different. In injectable form pentobarbitone is highly concentrated and rapidly fatal. The product is clearly marked as a euthanasia drug. Its sole purpose is to kill. Such a drug that is so clearly dangerous and where its potential for misuse is obvious should not be allowed to be stored in an unlocked cupboard with its usage unrecorded;

- While it is to be acknowledged that the high suicide rate in the veterinary industry requires a holistic solution that must involve increased education and support around mental health, a holistic approach also necessitates the introduction of measures for when increased education and support does not work. There needs to be stricter controls around dangerous drugs which are rapidly fatal and known to be the target of misuse;
- It is acknowledged that up-scheduling will not affect the access that veterinarians currently have to pentobarbitone and is unlikely to make any difference to the number of veterinarians who misuse the drug for suicide. However, this is not a valid excuse for not taking action to minimise suicide rates in relation to other people in the veterinary workplace. Such people include veterinary nurses, administrative staff, groomers, cleaners, contractors and members of the public;
- A large proportion of the people in veterinary workplaces committing suicide through misuse of pentobarbitone are veterinary nurses. Under Queensland's health regulatory regime veterinary nurses would not be allowed access to the drug if it were up-scheduled to Schedule 8. Providing that practices comply with the law, this is likely to minimise the incidence of veterinary nurses using pentobarbitone to suicide;
- The argument that busy veterinary practices will ignore the regulations if pentobarbitone is up-scheduled and allow veterinary nurses access to the drug unlawfully assumes that veterinarians will be willing to break the law. Such instances should also be minimised as a result of the increased auditing and scrutiny that Schedule 8 brings, as well as the deterrents in place for non-compliance;
- The argument that people will commit suicide by other means if pentobarbitone is inaccessible is an uneducated argument and goes against the research in this area. It is true that in some cases there is no stopping someone who is intent on suicide. However, suicides are often unplanned. Making it more difficult for a person to suicide often results in the person pausing, reconsidering their decision, and even seeking help;
- The fact that there is a much bigger problem in the general community regarding the illicit trade of pentobarbitone, most likely from overseas sources, is not an excuse for failing to take measures to make veterinary workplaces safer;

- There is no logical reason why pentobarbitone in injectable form would be listed as a Schedule 4 drug when Pentobarbitone in tablet form is listed as a Schedule 8 drug. The statistics indicate that a number of people have been willing and able to inject themselves with pentobarbitone for the purposes of suicide. There are also cases where people have committed suicide by drinking the liquid, which is designed for injection. Pentobarbitone in injectable and tablet form should therefore be granted the same protections. They should both be Schedule 8.
- A brief scan of the internet demonstrates that it is relatively well known that pentobarbitone can be used for suicide and that the drug can be sourced from veterinarians. It is nonsensical to suggest that the drug should not be up-scheduled in case this raises the profile of the drug and increases misuse. It is impossible to keep information about the potential misuse of this drug a secret. It is therefore logical to instead increase security around the storage of the drug to deter and prevent people from misusing it and stealing it from veterinarians;
- All veterinary surgeries in Queensland are currently required to have compliant Schedule 8 drug safes in order to be operational. Veterinarians who operate a veterinary house call practice must have access to a locked receptacle to store Schedule 8 drugs whilst undertaking house calls. It would be surprising if this was not the case for most veterinarians nationwide. This should minimise any additional expenditure caused by having to purchase new safes or receptacles;
- It was not clear whether the TGA delegates were aware that pentobarbitone in injectable form was currently available in 100mL and 250mL bottles and that the manufacturer was also about to introduce a smaller than 500mL sized bottle to the market. In any event it was to be accepted that some veterinarians may not currently have had large enough safes to store 500mL bottles and that some veterinarians might require this size bottle to euthanise larger animals and multiple stock. In such circumstances veterinarians would need to purchase a larger safe/ receptacle and it would be relatively cheap to do so. This should not be a significant impediment to up-scheduling;
- It is doubtful that veterinary practices would cease euthanising wildlife humanely as a community service, due to additional recording requirements caused by an up-scheduling, as suggested by the AVA. This argument underestimates the values held by the veterinary profession. In any event, the potential to save human lives

through increased recording should be given more weight than an administrative burden;

- There appears to be an argument made to the TGA that up-scheduling the drug would result in staff safety being compromised in locations that require the transportation of sick and injured animals to external sites with veterinarians. It is implied in this argument that in some jurisdictions non-veterinarians currently have authority to administer pentobarbitone. If this is the case and there are sound reasons for doing so, States and Territories should simply carry over this authority / exemption to a Schedule 8 listing of pentobarbitone;
- There are simple recording processes in place for recording spillage and wastage. Also, there would be no reason why in the case of an emergency animal welfare would need to be jeopardized due to recording. It would be surprising if the requirement in most jurisdictions would be to record as soon as practicable. Therefore these issues should not be a barrier to introducing a requirement to record;
- As for the possibility that skimming may still occur with any recording system and not be detectable until the bottom of the bottle, this should not be a reason not to record at all. The fact that a record keeping system is not perfect is no excuse not to have one. In the case at hand the veterinary surgery held two bottles of Lethabarb for use at any one time. No records were kept of the volumes used along the way. A veterinarian noticed that a part bottle was gone but assumed that it had been used on an animal. At least a record keeping system will detect when part bottles go missing; and
- At the time of the Queensland inquest the manufacturer had not yet had an opportunity to estimate the increase in their costs that would be caused by an up-scheduling of the drug. It was therefore not necessarily to be accepted that the increase would be ‘significant’ as submitted by the manufacturer. It was also not accepted that demand for the drug would be significantly affected if increased costs were to be passed on to consumers. Pentobarbitone was currently the only drug available in Australia to euthanise animals humanely. In such circumstances it was difficult to see how demand for the drug would not continue. There were also three other competitors currently in the market who would no doubt consider filling the gap if the current manufacturer was to discontinue production of the drug.

#### **4. The evidence of Mr John Strachan**

- 4.1. Mr Strachan is the Presiding Member of the Veterinary Surgeons Board of South Australia (the Board). Mr Strachan is also a solicitor.
- 4.2. Mr Strachan has furnished the Court with three affidavits<sup>3</sup>. He also gave oral evidence at this inquest. Mr Strachan's evidence in the main concerned the storage requirements relating to pentobarbitone.
- 4.3. Mr Strachan pointed out that the Board exercises its functions pursuant to the Veterinary Practice Act 2003. He explained that the primary functions of the Board are to recognise courses of education or training that provide qualifications for registration of veterinary surgeons, to prepare or endorse codes of conduct and professional standards for veterinary surgeons, to prepare or endorse guidelines on continuing education for veterinary surgeons and to establish administrative procedures for handling notifications and complaints received about veterinary surgeons or veterinary service providers.
- 4.4. Mr Strachan is aware of the differing requirements that are imposed by Schedule 4 and Schedule 8 in relation to pentobarbitone.
- 4.5. Mr Strachan explained that the Board has power under the Act to determine the requirements necessary for a veterinary facility to be accredited as a veterinary hospital. However, the Board does not have power under the Act to set standards for veterinary premises in general including mobile veterinary practices. This would include veterinary clinics such as that at which Ms Patterson was employed as a veterinary surgeon. The practice at which Ms Murray had performed her work experience was an accredited veterinary hospital. The distinction means that the Board currently does not have the legislative power to regulate the storage of pentobarbitone in veterinary premises in South Australia unless the facilities are accredited by the Board as veterinary hospitals. As Mr Strachan has pointed out in his first affidavit<sup>4</sup>, at the time of the inquest there were only fifteen facilities in South Australia that were accredited as veterinary hospitals by the Board. I understood that the significant majority of veterinary practices are not veterinary hospitals and thus it is that the Board has no jurisdiction over those non-hospital practices in respect of storage requirements.

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<sup>3</sup> Exhibits C30, C30a and C30b

<sup>4</sup> Exhibit C30

Nevertheless, as seen in the Patterson matter the practice at which she was employed as a veterinary surgeon kept and stored pentobarbitone.

- 4.6. Mr Strachan told the Court that the Board had been made aware of the deaths of the two women in question. Upon being notified of the deaths the Board referred the matter to its Premises Standards Working Group for consideration.
- 4.7. In his affidavits and in his oral evidence Mr Strachan indicated that with a view to the prevention of future deaths such as those of Ms Murray and Ms Patterson the Board supports the proposal that pentobarbitone be reclassified to Schedule 8 status. He explained that the fact that the Board does not have the power to regulate clinics and premises other than veterinary hospitals means that the Board does not have the power to regulate storage of pentobarbitone in those other clinics and premises. He suggested that the Board needed power to regulate clinics in the same manner in which it exercised the power to regulate veterinary hospitals. In his oral evidence Mr Strachan reiterated that the Board strongly recommended that the drug pentobarbitone be rescheduled as Schedule 8, mainly due to the Board's inability to proscribe any form of control in respect of the majority of veterinary premises. He explained that the Board did have power to ensure that in the case of veterinary hospitals substances such as pentobarbitone were appropriately stored in locked containers, but as far as non-accredited veterinary clinics are concerned, the Board is restricted to simply providing guidance in respect of the manner in which those other clinics should store their pentobarbitone supplies.
- 4.8. After Mr Strachan gave oral evidence he furnished the Court with two further affidavits<sup>5</sup>. In his second affidavit he reiterated that the Board considered that it could amend its accreditation requirements of veterinary hospitals to include a specific requirement to store pentobarbitone in a locked container or cupboard. In his third affidavit he indicated that at a meeting on 9 August 2018 the Board determined with immediate effect that it would be a mandatory requirement for veterinary hospitals with accreditation under the Act to keep pentobarbitone stored in a locked facility affixed to the floor or wall of the building or affixed to the chassis of a vehicle and providing no less security than a 10mm thick metal safe. It was determined that it would also be a necessary requirement for accredited veterinary hospitals to maintain records of

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<sup>5</sup> Exhibits C30a and C30b

pentobarbitone use in line with the regulations applicable to Schedule 8 drugs. Thus, in the case of veterinary hospitals these mandatory requirements would in effect replicate the Schedule 8 requirements.

4.9. As to non-hospitals, the Board determined that a guidance note would be sent to all other veterinary surgeons and veterinary service providers setting out the Board's recommended changes to the storage and record keeping practices in respect of pentobarbitone. An email was sent to all veterinary surgeons and veterinary service providers strongly recommending that pentobarbitone be stored in the following manner:

- Pentobarbitone should be stored in a locked facility affixed to the floor or wall of a building or affixed to the chassis of a vehicle and providing no less security than a 10 mm thick metal safe
  - The storage facility should remain locked, to prevent access to unauthorised persons, at all times except when it is necessary to open it to carry out a procedure
  - Keys and combinations to the storage facility should not be accessible to or known by unauthorised persons (e.g. staff other than veterinary surgeons)
- When transported for use in another location, Pentobarbitone should be stored in a locked receptacle (e.g. a medical bag) in the veterinary surgeon's immediate possession
  - If the receptacle is necessarily out of the veterinary surgeon's immediate possession for a brief period of time, it must be secured, out of sight and in a lockable facility (e.g. lockable vehicle or cupboard) to prevent unauthorised access.<sup>6</sup>

There was a further recommendation regarding the record keeping requirements that would be applicable to Schedule 8 drugs. As these were recommendations only, they are not enforceable by the Board.

4.10. In his third affidavit Mr Strachan indicated that the Board considered that the requirements and recommendations described in the preceding two paragraphs represented the extent of the action that could be taken given the Board's current limitations in regulating veterinary premises other than veterinary hospitals.

4.11. Mr Strachan made it plain that both he and his Board were of the firm view that the requirements that Schedule 8 would impose, and which have now in effect been imposed by the Board in respect of veterinary hospitals only, should operate across the entire veterinary field and not just in respect of hospitals.

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<sup>6</sup> Exhibit C30b

- 4.12. In his second affidavit Mr Strachan made some compelling observations in respect of the objections to the rescheduling of pentobarbitone that have been voiced by various entities. He stated that overall he did not consider that any of the points made in opposition were of such significance to preclude pentobarbitone being rescheduled to Schedule 8. He believed that rescheduling of pentobarbitone may reduce the numbers of suicides by means of access to that drug. He agreed with the Queensland coroner's observation that the administrative and financial burden of such a change was relatively minor when weighed against the benefit of saving human lives.
- 4.13. Naturally Mr Strachan also agreed with the Queensland coroner that the incidence of suicide in the veterinary profession required a holistic solution, not necessarily restricted to issues concerning the storage of lethal substances.
- 4.14. As far as veterinary premises other than veterinary hospitals is concerned, there are two areas of possible recommendation. There is firstly the question as to whether or not pentobarbitone should be rescheduled to Schedule 8 which would be an across-the-board measure that would apply to any premises, veterinary or otherwise, be it a veterinary hospital or other type of veterinary clinic, and which would require the substance to be kept in a locked container or safe. The other possible measure would be for the Veterinary Practice Act 2003 to be amended so that the Board has jurisdiction over all veterinary premises regardless of whether or not they are being operated as a veterinary hospital. I return to the question of recommendations below.
- 4.15. On behalf of the veterinary hospital that had engaged Ms Murray in work experience, the Court was informed that having been made aware of the prevalence of the use of Lethabarb in suicides, the hospital management voluntarily determined to commence storing Lethabarb in a locked safe. Prior to this, and at the time of Ms Murray's death, it had been stored in an unlocked overhead cupboard in the pre-operation room. That arrangement as already seen complied with Schedule 4. Their new arrangements comply with Schedule 8. The hospital also has now implemented a process whereby a running total of the use of Lethabarb is recorded. Given that the practice is an accredited veterinary hospital, the revised storage arrangements would have been mandatory in any event pursuant to the requirement imposed by the Board in August 2018 referred to in paragraph 4.8 herein. The principal veterinary surgeon of that practice gave oral evidence in the inquest that augmented the information that the Court had already received in relation to storage. He told the Court that they have in fact two

safes. The day to day Schedule 8 drugs and Lethabarb are kept in a safe in the pharmacy. 'Backup' second bottles of Schedule 8 drugs and Lethabarb are kept in a safe in his office. It was explained to the Court that in that practice there were six veterinary surgeons and seven nurses and that all veterinary surgeons and nurses had access to the safe in the pharmacy. As far as the safe in his office was concerned only himself and the other director of the practice knew the code for that safe.

- 4.16. As far as the other practice is concerned, that is the practice where Ms Patterson was employed, the Court was informed that as a result of her death the clinic now keeps Lethabarb in a locked area to which there is only one key available. That sole key is given to the surgeon nominated for the shift and the key itself is kept in a locked safe. The combination of the safe is known only by nominated surgeons at that clinic. This measure is something of an answer to those who argue that all veterinary surgeons will always have unrestricted access to pentobarbitone regardless of the manner in which it is stored.
- 4.17. These straightforward measures lead me to conclude that a failure to store pentobarbitone in anything other than a locked container when not in use is utterly incomprehensible.

## **5. Mental health issues**

- 5.1. I have already referred to the fact that each of the two women had experienced mental health difficulties. The police investigation revealed that Ms Murray had a history of depression dating from 2010 for which she had been treated with antidepressant medication. Although there does not appear to have been any recent overt manifestations of this illness, Ms Murray had recently been informed that of the four subjects that she had undertaken in the first year of her doctorate of degree she had failed three of them, had elected not to sit for supplementary examinations and was thus faced with the prospect that she would be required to repeat those subjects in the following academic year. It appears that Ms Murray was something of a perfectionist and that upon being informed of her results went '*inside herself*' and was '*demoralised*'. She was described as a student who was a '*distinction kid*' who would not settle for credit status, let alone failure.
- 5.2. Ms Patterson experienced what appears to be mental health difficulties since she had been at school and at times had threatened suicide. She had experienced a number of

hospital admissions and admissions to a mental health facility for young people. She had undergone electro-convulsive therapy and cognitive behavioural therapy. In spite of her difficulties she graduated from veterinary science and obtained the necessary qualifications to practise as a veterinary surgeon. The police investigation revealed that at one point in 2015 she appeared to have embarked on a downhill spiral, but later that year appeared to be enjoying life. In June 2015 it is recorded that she had been vomiting from diet pills and had cut herself with a razor. This had involved mental health services attending Ms Patterson's home for assessment and her taking a week off work. I have already mentioned some of the events of Friday 16 October 2015, the day that she sent the disturbing text message to her parents. It appears that on that day she had been questioned by managers at her place of work about her having taken a sick day. She approached a colleague in tears about that issue and later that day sent the text to her parents. Later that night before Ms Patterson went to bed she appeared to be back to normal as observed by her housemate. She was found deceased the following morning.

- 5.3. The asserted connection between persons involved in the veterinary profession and suicide by way of pentobarbitone toxicity has been widely documented. I have mentioned three such instances in these findings. In her final address Counsel Assisting, Ms Waite, read to the Court a passage from an article then on the AVA website that suggested that veterinarians were four times as likely to fall victim to suicide. It is quite beyond the scope of this inquest to verify the exact incidence. But I regard the evidence relating to the higher incidence of suicide in this field of endeavour as better than anecdotal and I have accepted the proposition that the incidence is higher within the profession and the industry than in the general community. I also accept that the use of pentobarbitone as a means of suicide is a common method given the access that veterinarian surgeons and their staff have had to that substance. One suspects, although one cannot be sure, that the higher incidence is as the result of the ease of that access.
- 5.4. In his findings the Queensland coroner identified within the veterinary profession a need for suicide awareness and prevention that might be promoted by advertising campaigns, mentoring programs, mental health first aid courses and counselling hotlines. One of the investigating officers in this inquest, Mr Sketchley, in his very

helpful investigation report in respect of the death of Ms Murray<sup>7</sup>, has identified that the course in respect of the Doctorate of Veterinary Medicine degree is academically demanding and that in the case of Ms Murray the increased academic demand was likely to have been an additional stressor for her and that it had contributed to her sharp decline in academic performance. The veterinary surgeon who gave oral evidence also referred to this issue as did the presiding member of the Board, Mr Strachan. Mr Strachan indicated that he agreed with the Queensland coroner that the high suicide rate in the veterinary profession required a holistic solution. He identified pressing issues in the profession that included high levels of stress, long hours and the need for further development of mentoring programs and mental health programs.

- 5.5. There seems to be little doubt that there is a concerning incidence of suicide within the veterinary profession and that this is not necessarily restricted to any particular role within that profession or industry. The veterinary surgeon who gave oral evidence indicated to the Court that there was a high incidence of suicide among vets. He said:

'As regards practising vets, look it is a stressful job. You know, sometimes the demands of employers of their vets may be unreasonable. So if I'm, you know, primarily if I'm working in a small animal practice or a large animal practice where there is only a handful of vets, there's going to be a lot of work that they do that's going to be sole charge. If I'm a new graduating vet and I don't have the support, you know, of a boss and I'm sort of chucked out on my own to try and deal with something I've never seen before, you know, that obviously creates a lot of stress. I guess, you know, client's expectations are growing, so, you know, what they expect us to do and provide, you know, that requirement is getting greater and greater and some clients can be great to work with and some clients can be unreasonable.'<sup>8</sup>

As far as veterinary students were concerned, he added that he knew that it was a very stressful course with not a great deal of downtime and that the students' holidays are essentially taken up by work experience. He said that it is a massive course with many animals to study and that there was not much downtime to relax because it was all consumed by the students' course requirements<sup>9</sup>.

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<sup>7</sup> Exhibit C14, page 31

<sup>8</sup> Transcript, page 64

<sup>9</sup> Transcript, page 64

## **6. Recommendations**

- 6.1. Pursuant to section 25(2) of the Coroner's Act 2003 I am empowered to make recommendations that in the opinion of the Court might prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the Inquest.
- 6.2. Senior Constable Sketchley of the South Coast Criminal Investigation Branch has included in his investigation report a comprehensive analysis of possible measures that might be the subject of coronial recommendation. Indeed, Mr Sketchley makes his own informed and evidence-based recommendations for change. On the whole I agree with Mr Sketchley's analysis. In fact in his report Mr Sketchley foreshadowed the very issue that the Board has also considered. Mr Sketchley identified that in order to be in a position to regulate veterinary clinics in the same manner as accredited veterinary hospitals, the relevant legislation would need to be amended. As seen earlier Mr Strachan on behalf of the Board made the same observation. In addition, Mr Sketchley suggested that it may be open to the Board to require veterinary surgeons to comply with certain storage requirements for this particular drug. Mr Strachan told the Court, correctly in my view, that the Board only has jurisdiction in respect of veterinary hospitals and not veterinary clinics in general. However, as seen, the Board has made a strong recommendation that veterinary clinics comply with Schedule 8 requirements in the same manner in which veterinary hospitals have now been mandated by the Board to comply.
- 6.3. Mr Sketchley suggested that a number of recommendations would be appropriate, including:
- That the legislation regarding veterinary practice be amended to enable the Board to regulate veterinary clinics in the same manner in which they regulate veterinary hospitals;
  - That the Board impose a requirement that Lethabarb be kept in a locked container or cupboard when not in use and that records of its purchase and use be kept;
  - That the Board amend the relevant code of conduct to require veterinary surgeons to keep Lethabarb in a locked container or cupboard and to distribute this information to all veterinary surgeons registered in South Australia.

- 6.4. I note that the Board has imposed a mandatory requirement on veterinary hospitals that Lethabarb be kept in a locked container or cupboard when not in use and that records be kept.
- 6.5. Detective Brevet Sergeant Sherrie-Ann Modra then of the Sturt Criminal Investigation Branch in her excellent report in relation to the investigation into the death of Ms Patterson has recorded<sup>10</sup> that the management of the clinic that employed Ms Patterson has confirmed that storage for Lethabarb changed as a result of Ms Patterson's death. In that practice Lethabarb is now in a locked area and only one key is available. This is kept by the surgeon nominated for a particular shift and at the completion of duty the key is locked in a safe. The clinic is alarmed at night. I have already made reference to these arrangements. Ms Modra observed that although Lethabarb is a Schedule 4 drug that does not require compliance with the Schedule 8 storage code, the veterinary clinic in question had taken the necessary steps to ensure that the substance is secure.
- 6.6. In my opinion the arguments that favour a mandatory requirement that pentobarbitone be kept in a locked container or safe except when in use, and even when in transportation, are powerful ones and that they outweigh the totality of argument to the contrary. I adopt the analysis of the Coroners Court of Queensland in this regard. I signify my agreement with the evidence of Mr Strachan concerning this issue. I also signify my agreement with the observations and recommendations made by Mr Sketchley of the SAPOL Criminal Investigation Branch.
- 6.7. I am mindful of the fact that keeping pentobarbitone in a locked container may not prevent all suicides by way of its ingestion. Some veterinary surgeons will need and have routine access to the substance even if it is under lock and key. But it seems to me that persons who work in veterinary practices who would not conceivably need to use and have access to the substance such as some nurses, students, groomers, administrative staff and other employees will be better protected if the substance is housed in a locked container.
- 6.8. I am mindful of the argument that people intent on suicide will not necessarily be deterred from taking that course of action merely because their preferred means, in this case pentobarbitone, is not available to them. It is said that they will seek and use other

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<sup>10</sup> Exhibit C28

means. Those who suggest this would no doubt also suggest that it would be naïve to think otherwise. It is true that some people will seek and use alternate methods. On the other hand, Ms Waite, counsel assisting, with her customary common-sense observed in her final address to the Court that the removal of the ability to spontaneously decide to commit suicide, especially by way of such an easy and available method, is likely to be a key means of delaying it and thereby in many cases preventing it. I agree with that observation and would add that the depriving of this method of suicide might well save the lives of those who would be disinclined to use other less attractive methods.

6.9. I therefore make the following recommendations directed to the attention of the Minister for Primary Industries and Regional Development (the Minister), the South Australian Department of Health, the Veterinary Surgeons Board of South Australia, the Australian Veterinary Association and the Therapeutic Goods Administration.

- 1) That the Veterinary Practice Act 2003 be amended to provide the Veterinary Surgeons Board of South Australia with jurisdiction in respect of veterinary practices other than veterinary hospitals such that the Board would have power to impose requirements in respect of the storage of, and maintenance of records with respect to, substances kept on the premises of and transported by all veterinary practices including hospitals and other practices and service providers. Mr Damon of counsel for the Board has suggested that means of achieving such an outcome would be for the Act to be amended to enable the Board to prepare or endorse standards for veterinary premises not simply hospitals. Alternately Mr Damon suggests that pursuant to section 13(1)(i) of the Act the Minister is empowered to assign to the Board the function of regulating all veterinary premises, practices and service providers. I draw these suggestions to the attention of the Minister.
- 2) That in any event pentobarbitone in injectable form be up-scheduled within the Commonwealth Poisons Standard to Schedule 8;
- 3) That professional bodies within the veterinary profession and industry take note that there is a concerning incidence of persons associated with that profession and with that industry utilising liquid pentobarbitone for the purpose of committing suicide and that this incidence of suicide requires a holistic solution. It should be noted that pressing issues in the profession include high levels of stress and long hours. There

is a need for the development of mentoring programs and mental health programs for members of that profession and industry including, but not limited to, veterinary surgeons, veterinary nurses, students and other persons associated with or employed by veterinary practices.

6.10. I commend the Veterinary Surgeons Board of South Australia for its continuing work in relation to this difficult public issue.

6.11. I commend the two veterinary practices that were examined in this inquest for the steps that they have taken to safely secure pentobarbitone in their respective premises.

*Key Words: Pentobarbitone Toxicity; Storage and Access to Drugs; Schedule 4 Substance*

*In witness whereof the said Coroner has hereunto set and subscribed his hand and*

*Seal the 23<sup>rd</sup> day of October, 2019.*

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*Deputy State Coroner*