

CL-AB.10

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To: <jmichaels@parliament.gov.za>
Date: 2009/10/16 04:55 PM
Subject: Criminal Procedure Act

CC: <g...@...>, <S...@...>, <kl...@...>
Dear Sir / Madam,

Regarding The Criminal Procedure Act (51 of 1997)

Section 37 (2) (b) If any registered medical practitioner attached to any hospital is on reasonable grounds of the opinion that the contents of the blood of any person admitted to such hospital for medical attention or treatment may be relevant at any later criminal proceedings, such medical practitioner may take a blood sample of such a person or cause such sample to be taken.

This Section of the Act is extremely important and needs to be reviewed.

The following modifications are suggested:

1. The Act needs to make provision for other 'intoxicating substances' - not just alcohol ('intoxicating substance' = cannabis, amphetamines, heroine, cocaine, etc).
2. The Act needs to word Section 37 (2) (b) more strongly - ie. that the attending medical practitioner 'ought to', 'should' or 'must' take blood alcohol and/or test for other 'intoxicating substances'.
3. Appropriate specimen containers should be made provision for in the hospitals with regards to the sampling of blood alcohol and/or other 'intoxicating substances' - this should be made mention of in this section.
4. "All blood alcohol and/or 'intoxicating substance' blood results should be stored safely and securely in the medical practitioner's/ patients hospital files. Should any third party (for example, an insurance company) request such information - the Promotion of Access to Information Act (Act 2 of 2000) should be initiated on the part of the requester."
5. (Finally, and controversially, a decision will have to be taken regarding whether or not any medical practitioner who contravenes any provision of this section shall be guilty of an offence, or whether any medical practitioner shall not be liable in respect of any notification given in good faith in accordance with this section...)

The floor is open for discussion!

Respectfully submitted,

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