Pharmacy –
Introduction to law in New Zealand

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Divisions of law

- International – between States
- Public Law – between the state and the individual Constitutional Law, Criminal law, Administrative Law, and Tax or Revenue Law.
- Private Law – Contract, Torts, Family, Land, (all part of the Common Law) Trusts, Succession (Equity).
Sources of Law

- Statute Law – Accident Compensation Law
- Case Law *Donoghue v Stevenson*
- *Customary Law*
- *Treaty of Waitangi*
Statute Law

- Introduction of a Bill - includes an explanatory note setting out the policy it is seeking to achieve.
- First reading done after ensuring it is not inconsistent with the NZBoR.
- Referral to a Select Committee for submissions and consideration. Report prepared.
- Second Reading – main debate.
- Then sent to a Committee of the Whole House.
- Third Reading.
- Assent.
Canterbury Earthquake Response and Recovery Bill -

- Government Bill

- The purpose of the bill was to ensure that the Government has adequate statutory power to assist with the response to the Canterbury earthquake.

- Introduced 14/9/10

- First reading 14/9/10

- Second reading 14/9/10

- Committee of the whole House 14/9/10

- Third reading 14/9/10

- Royal assent 14/9/10

- Canterbury Earthquake Response and Recovery Act
Copyright Infringing File Sharing Amendment Bill

- Government Bill
- The purpose of the bill was to provide new enforcement measures against the unauthorised sharing of copyright material via the internet.
- Introduced 23/2/10
- First reading 22/4/10
- Second reading 12/4/11
- Committee of the whole House 12/4/11
- Third reading 12/4/11
- Royal assent 12/4/11
Bills

- Government Bills – Copyright (File Sharing) Amendment Bill

- Members Bills - are bills introduced by Members who are not Ministers. Mondayising the Holidays is a proposed Members Bill in 2012.

- Local Bills - Wanganui District Council (Prohibition of Gang Insignia) Bill - This bill seeks to address the increasing problems created by violent confrontations between rival gangs in the Wanganui District. Passed 9 May 09.

- Private Bills - Christ's College (Canterbury) Amendment Bill (Nicky Wagner) The purpose of this bill is to amend the Christ's College (Canterbury) Act 1910 to remove difficulties in administering property vested in the College.

Current Bill – Criminal Procedure (Reform and Modernisation) Bill

- Government Bill introduced 15 Nov 2010
- First reading 24 Nov 2010
- Referred to Justice and Electoral Committee
- Report 14 July 2011
- Second reading 27 September
- Committee of the Whole House 29 September
- Divided Bill
- Read for a 3rd time time 4 October 2011 – Criminal Procedure Act 2011.
Accident Compensation Legislation

- Accident Compensation Act 1972 then the Accident Compensation Act 1982
- Accident Rehabilitation and Compensation Insurance Act 1992
- Accident Insurance Act 1998
- Accident Insurance Amendment Act 2000
- Injury Prevention, Rehabilitation, & Compensation Act 2001
- Injury Prevention, Rehabilitation, & Compensation Amendment Act (No 2) 2005
- Injury Prevention, Rehabilitation, & Compensation Amendment Act 2008
- Injury Prevention, Rehabilitation, & Compensation Amendment Act 2009
- Other changes now in the pipeline.
Accident Compensation Act 2001

- S317 (1) No person may bring proceedings independently of this Act, whether under any rule of law or any enactment, in any court in New Zealand, for damages arising directly or indirectly out of—personal injury covered by this Act; or personal injury covered by the former Acts.

- S319 (1) Nothing in this Act, and no rule of law, prevents any person from bringing proceedings in any court in New Zealand for exemplary damages for conduct by the defendant that has resulted in—personal injury covered by this Act; or personal injury covered by the former Acts.
Personal injury

- S 26 (1) Personal injury means-

- (a) the death of a person; or

- (b) physical injuries suffered by a person, including, for example, a strain or a sprain; or

- (c) mental injury suffered by a person because of physical injuries suffered by the person; or

- (d) mental injury suffered by a person in the circumstances described in section 21; or

- [(da) work-related mental injury that is suffered by a person in the circumstances described in section 21B; or]
Acts that may affect you include:

- Health Practitioners Competence Assurance Act 2003
- Health and Disability Commissioner Act 1994
- Health and Safety in Employment Act 1992
- Health and Disability Services (Safety) Act 2001
- Accident Compensation Act 2001
- Health Act 1956
- Privacy Act 1993
Regulations – delegated legislation

- Power delegated by statute to some other body to make law – central to the way government functions.

- Regulations often contain a lot of detail better left to bodies other than Parliament.

- Code of Health and Disability Services Consumers' Rights is a regulation made under the Health and Disability Commissioner Act. Official name - Health and Disability Commissioner (Code of Health and Disability Services Consumers' Rights) Regulations 1996

- It became law on 1 July 1996, and grants a number of rights to all consumers of health and disability services in New Zealand, and places corresponding obligations on providers of those services.

- It has been reviewed three times (in 1999, 2004 and 2009), and one change was made in June 2004, to substitute a new version of Right 7(10).
The Code of Health and Disability Services Consumers' Rights

- Clause 2 provides for 10 rights of patient: the right to be treated with respect, the right to freedom from discrimination, coercion, harassment, and exploitation, the right to dignity and independence, the right to services of an appropriate standard, the right to effective communication, the right to be fully informed, the right to make an informed choice and give informed consent, the right to support, rights in respect of teaching or research and the right to complain.

- Clause 3 Sets out provider compliance requirements
Other regulations that may affect you include:

- Health (Needles and Syringes) Regs 1998
- Health (Retention of Health Information) Regs 1996
- Health and Safety in Employment Regs 1995
- Privacy Regs 1993
- Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Regulations 2009
Case Law

- Relies on the Doctrine of Precedent.
- This means that a court of law is bound by earlier decisions of courts higher up the hierarchy of courts.
- This provides for some certainty of the law
- It allows for changing perceptions of community values.
Hierarchy of the Courts

- Supreme Court
- Court of Appeal
- High Court
- District Court (including Family and Youth Court)
- Administrative Tribunals
Common law - torts

- Negligence
- Defamation
- Assault, Battery, False Imprisonment, (Trespass to the Person)
- Trespass to land, Nuisance
- Privacy
Invasion of privacy

- No tort of privacy in New Zealand until 2005.

- But privacy was recognised in international instruments to which NZ was a signatory such as the Universal Declaration of Human Rights - Art 12 “No one should be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks on his honour or reputation.” and the International Covenant on Civil and Political Rights Art 17 (1)
Privacy is:

- Notoriously difficult to define
- Usually in terms of the “right to be let alone”
- Spatial Privacy
- Informational privacy
Privacy in NZ is recognised by:

- Broadcasting Act 1989
- Privacy Act 1993 and the Health Information Privacy Code.
- The Harassment Act 1997
- Now the common law tort – How did that happen?
**Tucker v News Media Ownership Ltd (1985)**

- First case to mention the possibility of a tort.

- Judge thought “a person who lives an ordinary private life has a right to be left alone and to live the private aspects of his life without being subjected to unwarranted or undesired publicity or public disclosure”. Three CA judges expressed an interest in such a tort.

- Public facts may become private over time.

- One who goes to the public may give up some privacy rights.
Bradley v Wingnut Films (1992) (HC)

- A disclosure of private facts that was a public disclosure;
- The facts must be private facts and not public ones;
- The disclosure must be highly offensive to a reasonable person of ordinary sensibilities;
- Public interest might be a defence;
- There can scarcely be anything less private than a tombstone in a public cemetery.
P v D (2000)(HC)

- That the disclosure of the private facts must be a public disclosure and not a private one.
- Facts disclosed to the public must be private facts and not public ones.
- The matter made public must be one which would be highly offensive and objectionable to a reasonable person of ordinary sensibilities.
- The nature and extent of legitimate public interest in having the information disclosed.
Hosking v Runting (2005) CA

- There are two fundamental requirements for a successful claim for interference with privacy:
  1. The existence of facts in respect of which there is a reasonable expectation of privacy; and
  2. Publicity given to those private facts that would be considered highly offensive to an objective reasonable person.
- NB 1 There was also a public interest defence.
  
  2. The appropriate remedy is damages rather than an injunction

This decision now binds all of the lower courts.