

Letters to the Editor

The death of buddy diving?

Dear Sir,

Revised guidelines for recreational diving medical examinations have recently been promulgated by SPUMS.^{1,2} The authors are to be commended for their work. The appendices regarding people with asthma or diabetes, in particular, provide a well-considered roadmap to the assessment of these aspiring divers. This document endeavours to provide a safe transition from the traditional, 'gate-keeper' model of diving medical examination to a 'risk assessment' model where the individual can make an informed decision whether or not to proceed with diver training. Such an approach is entirely consistent with the prevailing paradigm of medical care. Patient autonomy is paramount and everyone should take responsibility for their own decisions.

Inevitably, however, the presence in diving of potentially less fit individuals places an increased impost on those who dive with them. This is explicitly stated in Appendix D of these guidelines – “*Divers with diabetes must dive with a buddy who is informed of their condition and aware of the appropriate response in the event of a hypoglycaemic episode*” and later “*an informed buddy should be in a position to assist with or initiate this process*” (of dealing with an underwater hypoglycaemic emergency).^{1,2}

The role and responsibility of the buddy diver have been subject to recent legal scrutiny within Australia.^{3,4} There can be few members of the diving community in Australasia who are unaware of the tragic honeymoon death of Tina Watson and the subsequent conviction and imprisonment of her husband for criminally negligent manslaughter.

Section 290 of the Queensland Criminal Code states: “*When a person undertakes to do any act the omission to do which is or may be dangerous to human life or health, it is the person's duty to do that act, and the person is held to have caused any consequences which result to the life or health of any person by reason of any omission to perform that duty.*”⁵ The maximum penalty is life imprisonment.⁴

Despite acknowledging that the accused's mask and regulator were dislodged whilst attempting to assist his wife during her difficulties, the judges held that, having undertaken to act as his wife's dive buddy, he failed to perform his duty towards her when he surfaced to seek assistance rather than following her as she sank. It is possible that this incident could have been handled better, but, ignoring the media-led speculation surrounding this case, a clear legal precedent has now been established. A buddy bears significant responsibility in the event of mishap. No longer is buddy diving simply

an informal agreement to watch out for each other, it is an arrangement with formal duty-of-care responsibilities.

It is not unknown for the medical and legal professions to work at cross purposes. An unintended consequence of the conjunction of these two, unrelated documents is that buddy diving is now considerably more hazardous. Less fit divers are potentially more likely to require assistance (and less able to render it if situations are reversed) and now the diver who dares to survive, when their buddy perishes, faces a possible custodial sentence. It would be timely for the two professions to discuss the implications of these developments before fear of the consequences leads to the demise of buddy diving and a subsequent reduction of diving safety.

References

- 1 Bennet MH, editor. *Guidelines on medical risk assessment for recreational diving*. Melbourne: South Pacific Underwater Medicine Society; 2010. Available from: <<http://www.spums.org.au>>.
- 2 Bennett MH, editor. The SPUMS recreational diving medical. *Diving and Hyperbaric Medicine*. 2010;40:150-5.
- 3 Glasgow DR. *Inquest into the death of Christina Mae WATSON known as Tina WATSON*. COR 124 of 2003. Townsville: Coroner's Court; 2008. Available from: <<http://www.courts.qld.gov.au/Watson20080620.pdf>>.
- 4 *R v Watson; ex parte A-G (Qld)* [2009] QCA 279. Available from: <http://www.paci.com.au/downloads_public/court/25_R_v_Watson.pdf>.
- 5 Criminal Code Act 1899 (Qld) s 290. Available from: <<http://www.legislation.qld.gov.au/legisln/current/c/crimincode.pdf>>.

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Editor's comment

Dr Cooper has raised a very important issue that potentially has international ramifications for recreational diving.

I invite members of the SPUMS sub-committee that prepared the revised SPUMS diving medical, representatives of the recreational diving industry and their legal advisers to respond to Dr Cooper's letter in the pages of this journal. Open debate on this subject would be of considerable value.

Michael Davis, Editor