



**8 JULY 2013**

<b>Judgments.....</b>	<b>2</b>
New South Wales. Medical Tribunal.....	2
Victoria. Coroners Court .....	2
<b>Legislation.....</b>	<b>2</b>
Commonwealth .....	2
Victoria.....	3
<b>Reports .....</b>	<b>3</b>
Australia. Department of Health & Ageing .....	3
Australian Human Rights Commission .....	3
Australian Health Practitioner Regulation Agency & the boards .....	3
Australian Institute of Health & Welfare .....	3
Australia. National Health & Medical Research Council.....	3
New South Wales. Ministry of Health.....	3
Northern Territory. Department of Health .....	3
Queensland. Department of Health .....	4
South Australia. Department for Health and Ageing .....	4
Victoria. Department of Health .....	4
Western Australia. Health and Disability Services Complaints Office .....	5
United Kingdom. Department of Health.....	5
Australian Medical Association.....	5
British Medical Association .....	5

## JUDGMENTS

### New South Wales. Medical Tribunal

#### [Health Care Complaints Commission \(HCCC\) v Saedlounia \[2013\] NSWMT 13](#)

This case concerned an Iranian trained medical practitioner who was granted limited permission to practice in Australia due to restrictions imposed under his 457 visa. Any medical practice was required to be supervised (as his qualifications were not recognised in Australia), and only at specific locations. Between 2007 and 2011, breaching these conditions, he practiced medicine unsupervised and unauthorised at different health institutions, whilst lying about his employment history.

The Tribunal had to determine three primary questions:

1. Had the practitioner breached his visa conditions by working unauthorised and unsupervised?
2. Did the breaches individually amount to unsatisfactory professional conduct?
3. When taken in aggregate did these breaches amount to professional misconduct?

The first issue facts were largely undisputed. On the second issue the Tribunal determined that each repetitive breach amounted to unsatisfactory professional conduct. The fact that the practitioner had been working because he "misunderstood" his visa conditions and had a poor grasp of the English language was not substantial enough to prevent the Tribunal finding him guilty of unsatisfactory professional conduct. In doing so, the Tribunal stated that a responsible person acting responsibly would not have made such reckless assumptions about their visa conditions.

The Tribunal stated that when taken in aggregate, the multiple breaches amounted to professional misconduct. Rather than striking the practitioner off, the Tribunal determined he be reprimanded, fined, pay the cost of proceedings and attended professional ethics training at his own cost.

### Victoria. Coroners Court

21 June 2013 - [Inquest into the death of Heather Jane Kinder COR-2011-000270](#). The deceased was a 59 year old women with a past history of mental illness, having had multiple admissions to psychiatric hospitals. On 11 January 2011, the deceased was admitted to a psychiatric hospital as a voluntary patient, but was subsequently made an involuntary patient after a determination that she was unable to provide instructions regarding her treatment, and due to suicidal ideation. The deceased never expressed any intention to leave the unlocked low dependency unit (LDU) and she was subject to 15 minute observations, but on 20 January 2011 she absconded from the ward. She was found by police later that day, having overdosed on prescription medication, including quetiapine and zopiclone. Coroner Parkinson found there was no clinical indication that the deceased was likely to abscond, and she was satisfied that the deceased received reasonable and appropriate treatment.

Following this event, the hospital changed its LDU policy, and the ward entrance doors were locked for the majority of shifts, requiring individual voluntary patients to request the right to leave the ward as and when needed. Coroner Parkinson observed that this change aimed to balance the obligation to ensure the safety of individual patients with high absconding and suicidal risks against the impact that increased safety measures would have on lower-risk patients. Given the alteration to LDU access arrangements, Coroner Parkinson did not make any recommendations following this inquest.

## LEGISLATION

### Commonwealth

[Aged Care \(Residential care subsidy — amount of oxygen supplement\) determination 2013 \(No. 1\)](#)

[Aged Care \(Residential care subsidy — amount of viability supplement\) determination 2013 \(No. 1\)](#)

[Aged Care \(Residential care subsidy — amount of enteral feeding supplement\) determination 2013 \(No. 1\)](#)

[Aged Care \(Residential care - amount of basic subsidy\) determination 2013 \(No. 1\)](#)

## **Aged Care (Residential care subsidy — adjusted subsidy reduction)determination 2013 (No. 1)**

### **Victoria**

#### **Cancer (Reporting) regulations 2012**

### **REPORTS**

#### **Australia. Department of Health & Ageing**

Media release

26 June 2013 - **Aged care legislation passes both houses of Parliament**. Five bills have passed both houses of parliament today marking a historic achievement for the Australian Government's \$3.7 billion living longer living better aged care reforms.

#### **Australian Human Rights Commission**

4 July 2013 - **New guidelines recognise sex and gender diversity**. Protections for intersex, trans and gender diverse people in Australia gained additional support recently with the release of guidelines on the recognition of sex and gender by the Australian Government.

#### **Australian Health Practitioner Regulation Agency (AHPRA) & the boards**

1 July 2013 - AHPRA report released | [Read article](#)

#### **Australian Institute of Health & Welfare**

5 July 2013 - **Aboriginal and Torres Strait Islander health performance framework 2012 report** | [Report](#).

3 July 2013 - **Child and teenager oral health and dental visiting** | [Media release](#)

3 July 2013 - **Stroke and its management in Australia** | [Media release](#)

28 June 2013 - **Australia's medical indemnity claims 2011-12** | [Media release](#)

#### **Australia. National Health & Medical Research Council**

28 June 2013 - **Statutory expert committee vacancies**. More than 50 expert advisors are being sought from a range of fields to contribute to the regulation of therapeutic goods in Australia.

28 June 2013 - **Cost recovery impact statements**. Added six cost recovery impact statements: medical devices, good manufacturing practice, complementary medicines, over the counter medicines & blood, tissues and human cell and tissue therapies.

#### **New South Wales. (NSW) Ministry of Health**

Media releases

5 July 2013 - **NSW Health reminds public to "get tested" following increase in HIV**.

4 July 2013 - **Preferred site selected for Parkes hospital**.

3 July 2013 **New anophysiology laboratory opens at Bankstown hospital**.

3 July 2013 - **Minister marks milestones for Aboriginal health graduates**.

27 June 2013 - **Record numbers giving the gift of life in NSW**.

#### **Northern Territory. Department of Health**

Media releases

5 July 2013 - **Robyn Lambley - hospital boards appointed**. The make-up of the first round of Northern Territory health and hospital Board appointments has been finalised.

3 July 2013 - [Robyn Lambley - Minister welcomes food for futures](#). Health Minister, Robyn Lambley, has congratulated the YWCA of Darwin for the successful implementation of its training and catering 'Food For Futures' project.

2 July 2013 - [Robyn Lambley - Welcomes Mcklin's support for income quarantining](#). The Northern Territory Government has welcomed Federal community services Minister Jenny Macklin's support for welfare quarantining measures to apply to problem drinkers placed into alcohol mandatory treatment.

1 July 2013 - [Robyn Lambley - Day one of alcohol mandatory treatment](#). Up to 800 problem drinkers every year will undertake alcohol rehabilitation as part of the country Liberals Government's alcohol mandatory treatment measures, which get underway today.

28 June 2013 - [Robyn Lambley - landmark legislation will save lives](#). The passage of the Government's alcohol mandatory treatment legislation through Parliament will provide a lifeline for the Territory's worst problem drinkers and strike a significant blow against the impact of alcohol in the community.

27 June 2013 - [Adam Giles/ Robyn Lambley - Government to fast track regional alcohol management plans](#). Chief Minister Adam Giles and Health Minister Robyn Lambley have announced the Northern Territory Government will develop a new town wide alcohol management plan for Alice Springs.

### Queensland. Department of Health

Media release

[Mental Health Act under review](#) - A review of Queensland's *Mental Health Act 2000* will include feedback from the State's new mental health commission to support better mental health strategies and community needs.

[Have your say - review of the Mental Health Act 2000](#).

### South Australia. Department for Health and Ageing

Media releases

28 June 2013 - [Renewed approach required for Port Pirie blood lead levels](#).

28 June 2013 - [Women's and children's hospital review consultation](#).

### Victoria. Department of Health

28 June 2013 - Health Alert - [Novel Coronavirus \(NCoV\)](#).

Media releases

4 July 2013 - [Stamp of approval for Mildura hospital](#). The Mildura base hospital has come through with flying colours after being rated against the new national safety & quality health service standards.

4 July 2013 - [Australia's first 3D imaging laboratory opens](#). Minister for health David Davis today officially opened Australia's first 3D imaging laboratory at Monash medical centre in Clayton.

2 July 2013 - [VicHealth board members appointed](#). Health Minister David Davis has today announced the appointment of two new members to the Board of the Victorian health promotion foundation (VicHealth).

30 June 2013 - [Starting with a small change can lead to better health](#). Health Minister David Davis has encouraged Victorians to take small steps towards better health while launching the "Start with" campaign at Grattan gardens community centre.

28 June 2013 - [Call for builders for new eye and ear hospital](#). The major redevelopment of Victoria's iconic royal Victorian eye and ear hospital has moved a step closer, with the release of tender documents today to a shortlist of builders.

28 June 2013 - [Coalition Government improving safety for women in mental health care](#). The Victorian Coalition Government has now allocated more than \$4 million to improve the safety of women in mental health care, Minister for mental health Mary Wooldridge said today.

**The core spine of competencies** - Healthcare delivery has evolved into a patient-focused, coordinated, multidisciplinary team approach. In this context, although some skills and competencies reside within a particular professional group, many skills and competencies are required across the healthcare team. Developing a capable and appropriately skilled support-level workforce is a key component of the Victorian Department of Health's (the department's) response to the increasing and changing demand for quality healthcare, and to projected health workforce challenges impacting the health and community services sector. While the acceptance and utilisation of support-level roles across the health and community services sector has grown, the core spine of competencies (core spine) has been developed to further encourage the uptake of flexible support-level health and community services workforce qualifications and training. The core spine provides a common foundation of industry-relevant skills that facilitate movement between roles and settings as sector demand or personal career choices change and supports the development of career pathways and potential articulation opportunities for the health support workforce. Since 2012, the Victorian curriculum and assessment authority through the Victorian certificate of education vocational education and training (VCE VET) health program has promoted and included the core spine in the delivery of VET in schools. The department has developed a number of resources to support broad implementation of the core spine. These resources clearly outline the core spine approach and how the core spine will benefit employers, students and parents, and registered training organisations (RTOs).

3 July 2013 - Hospital circular - changes to Health Service 2013-14 payment schedule | [Publication Number 09/ 2013](#).

28 June 2013 - Hospital circular - change in admission time for emergency patients | [Publication Number 08/ 2013](#).

#### **Western Australia. Health and Disability Services Complaints Office**

[What's new with the \*Disability Services Act 1993\*?](#)

#### **United Kingdom. Department of Health**

[Middle East respiratory syndrome coronavirus \(MERS-CoV\) update.](#)

[Local health updated with new indicators and an improved interface.](#)

["Don't ignore persistent cough," warns lung cancer campaign.](#)

[Local tobacco control indicators for England now updated.](#)

[New vaccine offers babies protection against rotavirus.](#)

[New commissioning guidance for addiction to medicines.](#)

[Innovative genetic treatment to prevent mitochondrial disease.](#)

[Opening up debate on safe and compassionate healthcare.](#)

[Mental health nurses to join police on the beat.](#)

#### **Australian Medical Association (AMA)**

[AMA opposes fragmentation of care.](#)

[AMA family doctor week: 15-21 July 2013.](#)

[Revised after hours standards a welcome move.](#)

[AMA urges focus on health.](#)

[Advice to members regarding contracts with Medicare locals \(MLs\).](#)

#### **British Medical Association**

3 July 2013 - [Wales passes organ donation opt-out law](#). Doctors leaders have hailed a new opt-out organ donation law as one of the most important pieces of legislation in Welsh history.

3 July 2013 - **More doctors needed to tackle emergency care crisis, says health secretary**. Short term measures and long term solutions are needed to tackle the pressures in emergency medicine, members of Parliament have been told.

2 July 2013 - **Survey reveals the extent of general practitioner (GP) gloom**. A snapshot survey of 174 Welsh GPs has revealed doctors are overworked and stressed, with many regretting their choice of profession.

1 July 2013 - **Prescriptions should remain free**. Doctors leaders have warned against reintroducing prescription charges in Northern Ireland.

27 June 2013 - **Doctors condemn force feeding of hunger strikers**. Doctors and medical students condemned the force feeding of prisoners on hunger strike in Guantanamo.

## ABOUT US

### Andrew Forbes



Andrew practices in litigation and administrative law with a particular focus on health. He is recognised for his expertise in health regulation.

Andrew has acted in Commissions of Inquiry and led investigations into health-related incidents, such as the Hendra virus outbreak. He has acted as "counsel assisting" in internal disciplinary hearings and inquiries.

### Contact Details

T +61 7 3246 4086

[andrew.forbes@dlapiper.com](mailto:andrew.forbes@dlapiper.com)

## MORE INFORMATION

Contact your nearest DLA Piper office:

### BRISBANE

Level 29, Waterfront Place  
1 Eagle Street  
Brisbane QLD 4000  
T +61 7 3246 4000  
F +61 7 3229 4077  
[brisbane@dlapiper.com](mailto:brisbane@dlapiper.com)

### CANBERRA

Level 3, 55 Wentworth Avenue  
Kingston ACT 2604  
T +61 2 6201 8787  
F +61 2 6230 7848  
[canberra@dlapiper.com](mailto:canberra@dlapiper.com)

### MELBOURNE

Level 21, 140 William Street  
Melbourne NSW 3000  
T +61 3 9274 5000  
F +61 3 9274 5111  
[melbourne@dlapiper.com](mailto:melbourne@dlapiper.com)

## **PERTH**

Level 31, Central Park  
152–158 St Georges Terrace  
Perth WA 6000  
**T** +61 8 6467 6000  
**F** +61 8 6467 6001  
perth@dlapiper.com

## **SYDNEY**

Level 38, 201 Elizabeth Street  
Sydney NSW 2000  
**T** +61 2 9286 8000  
**F** +61 2 9286 4144  
sydney@dlapiper.com

**[www.dlapiper.com](http://www.dlapiper.com)**

DLA Piper is a global law firm operating through various separate and distinct legal entities.

For further information, please refer to [www.dlapiper.com](http://www.dlapiper.com)

Copyright © 2013 DLA Piper. All rights reserved.

If you would like to reproduce any of this publication, please contact Michael Regos on +61 3 9274 5437 or [michael.regos@dlapiper.com](mailto:michael.regos@dlapiper.com).

[Doc ID: 1201499832]