



# HEALTH ALERT

**3 FEBRUARY 2014**

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## JUDGMENTS

### New South Wales (NSW)

28 January 2014 - [ALL v Sydney Local Health District \[2014\] NSWCATAD](#)

The applicant sought review of the respondent's conduct, asserting it breached health privacy principles under the *Health Records and Information Privacy Act 2002* regarding "use" and "retention and security" of his health information.

Under the *Mental Health Act 1990*, the applicant was involuntarily admitted to the respondent's psychiatric unit, having been brought in by police who noted on pro forma documentation he had stated two men with firearms were trying to get him. A psychiatrist provisionally assessed him as "delusional and paranoid." He was later assessed by another psychiatrist, and upon discharge a nurse recorded diagnosis of "delusional ideation" and the administrative clinical coder noted paranoia and acute psychiatric disorder. Upon request for his medical records, the applicant was advised the second psychiatrist's discharge summary was missing.

The applicant contended that in making an initial assessment, the first psychiatrist "used" the information provided by the police. He asserted the information regarding the two men with firearms was factually incorrect and it was a breach of the "use" principle for the psychiatrist to rely on it. The Tribunal disagreed, determining the psychiatrist had taken reasonable steps, in the circumstances, to ensure the information was accurate. The applicant also contended breach of the "retention and security" principle due to the missing discharge summary. This was conceded by the respondent, who determined the final diagnosis could not be considered accurate given the missing documents. As the applicant did not seek amendment of his record, the Tribunal made no conclusive findings on this issue.

28 January 2014 - [Dezfouli v Justice health and forensic mental health network \[2014\] NSWCATAD 5](#)

Anti - discrimination - complaint of disability discrimination declined as lacking in substance - whether facilitating the donation of a kidney to a stranger is a "service" provided by the respondent - whether fair and just for complaint to proceed.

### Victoria

21 January 2014 - [Inquest into the death of Eddie Teck Chuan Lee](#)

Mr Lee, 66, presented at Dandenong Hospital where a CT brain scan revealed a large parietal haemorrhage. Additional scans showed no change and surgical intervention was considered inappropriate. Mr Lee was commenced on intravenous heparin but given an unintentional overdose. Nursing staff misread the vial and 20,000 units was given instead of the prescribed 2,000. Upon discovering the error, the heparin infusion was suspended. An urgent CT scan revealed progression of the intracerebral bleed. Attempts to control the bleed were unsuccessful and Mr Lee did not recover.

The two ampoules of heparin were the same size and shape, but had different coloured printed text. The nurses involved were both experienced Division 1 nurses, one being an Assistant Nursing Unit Manager. It was noted as a particularly busy shift. The nurse brought the medication to the Assistant Manager to check the dosage while she was on the telephone, taking her pointing at the order as confirmation. It was hospital protocol for two Division 1 nurses to together administer intravenous drugs but this did not always occur in practice, according to the nurse, because of night shift workloads.

Southern Health accepted the error. It immediately removed the higher dose from the ward's drug room and made heparin only available in pre-prepared bags with saline. It also altered its cross-checking medication protocol to communicate clearly to staff that certain medications do require distinctive attention.

Coroner Spanos made no adverse findings against the individuals involved and accepted the systematic changes made by Southern Health.

3 January 2014 - [Cabral v O'Connor \[2014\] VCAT 10](#)

Claim for damages for breach of the *Fair Trading Act 1999* – agreement to provide services for nurse migrating to Australia – payment accepted - services not provided – whether contravention by company

which entered the agreement – whether company director was involved in the contravention – *Fair Trading Act 1999* ss 19, 145, 155, 159.

28 January 2014 - [Myers v Medical Board of Australia \[2014\] VSC 3](#)

Administrative Law — leave sought to appeal Victorian Civil and Administration Tribunal (VCAT) decision — whether question of law — challenge to findings of fact — tribunal an expert panel — whether findings of fact open on the evidence — whether cancellation of registration of medical practitioner under *Health Professionals Registration Act 2005* and disqualification from applying for registration for one year outside the range reasonably open — whether manifestly excessive — whether too much weight given to specific deterrence.

### Commonwealth

3 January 2014 - [1313208 \[2014\] MRTA 56](#). Application for review of decisions made by a delegate of the Minister for Immigration and Border Protection to refuse to grant the applicants skilled independent (permanent) visas under s.65 of the *Migration Act 1958* (the Act) - applicant nominated skilled occupation of registered nurse (medical).

### Queensland

24 January 2014 - [Inquest into the death of Craig Steven Lingwood](#). Death in custody, recognition of melanoma, management of urgent referrals to external providers, follow-up care.

### Western Australia

22 January 2014 - [McGlenn v Joondalup hospital \[2014\] WADC 3](#). Costs - catastrophic personal injury claim - Legal Practitioners' (Supreme Court)(contentious business) determination 2012 - item 17 declaration - whether declaration should be made before liability for costs of the action is decided.

### United Kingdom

29 January 2014 - [Isaghehi v Nursing and midwifery council \[2014\] EWHC 127 \(Admin\)](#). Appeal against a decision of the conduct and competence committee of the nursing and midwifery council regarding a psychiatric nurse.

## LEGISLATION

[National Health \(highly specialised drugs program for hospitals\) special arrangement amendment instrument 2014 \(No. 1\) \(No. PB 4 of 2014\)](#).

[Home care subsidy amendment \(transitional workforce supplement and various measures\) determination 2014](#).

[Residential care subsidy amendment \(transitional workforce supplement\) principle 2014](#).

[Australia New Zealand food standards code — standard 1.4.2 — maximum residue limits amendment instrument No. APVMA 1, 2014](#).

[Aged care \(maximum accommodation payment amount\) determination 2014](#).

## REPORTS

### Australia. Department of Health & Ageing

Media releases

29 January 2014 - [More Australian lives transformed as organ donation rates at all-time high](#). Assistant Minister for Health Senator Fiona Nash has announced that Australian organ donation rates were at record levels.

Private Health insurance Circulars

31 January 2014 - [PHI 07/14 Hospital information - new private hospital](#).

### **Australian National Preventive Health Agency**

28 January 2014 - [Australia Day honours for Advisory Council members](#). Three members of our Advisory Council have received 2014 Australia Day honours for their outstanding contribution to medicine and health.

### **Australia. Health Practitioner Regulation Agency and the boards**

24 January 2014 - The first prosecution of a National Law offence resulted in a guilty verdict and the accused person ordered to pay fines totaling \$20,000. [Read More](#).

30 January 2014 - The Pharmacy Board of Australia releases its latest communiqué. [Read More](#).

### **Australia. Therapeutic Goods Administration (TGA)**

28 January 2014 - [St Jude medical implantable cardiac devices when used with Merlin programmer and version 17.2.2 software](#). Health professionals are advised that St Jude Medical Australia has issued a hazard alert regarding its Implantable cardiac devices.

28 January 2014 - [Medtronic mosaic porcine aortic bioprosthesis](#). Medtronic Australasia, in consultation with the TGA, has issued a hazard alert for its mosaic porcine aortic bioprosthesis Model 305.

30 January 2014 - [Consultation: Invitation for public comment - Advisory committee on chemicals scheduling \(ACCS\), the advisory committees on medicines & chemicals \(ACMS\) and joint ACCS/ACMS meetings, March 2014](#). Notice inviting public submissions under Regulation 42ZCZK of the *Therapeutic Goods Regulations 1990*. Closing date: 20 February 2014.

30 January 2014 - [Australian public assessment reports for prescription medicines \(AusPARs\)](#). Added nanoparticle albumin-bound (nab) paclitaxel (Abraxane).

29 January 2014 - [Statutory expert committee forms](#). Updated declaration of interests and deed of undertaking forms.

29 January 2014 - [TGA advisory committee guidelines](#). Minor updates have been made to the guidelines.

29 January 2014 - [Sunscreens: information for consumers](#). Question and answer on a news report from January 2014 added to nanoparticles in sunscreens.

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

31 January 2014 - [Stronger futures in the Northern Territory: Hearing health services 2012-2013](#).

### **Australian Commission on Safety and Quality in Health Care**

[28 January 2014 - On the Radar – Issue 159 \(117KB\)](#).

### **Australia. National Mental Health Commission**

4 April 2014 - [National Youth Week](#).

20 February 2014 - [The Mental Health Services \(MHS\) Summer Forum](#).

20 February 2014 - [World Day of Social Justice](#).

### **New South Wales. Ministry of Health**

Media Releases

29 January 2014 - [Measles outbreak sparks health warning for travelers to the Philippines](#).

Policy Directives & Guidelines

30 January 2014 - [Public health field response guidelines](#).

Information Bulletins

29 January 2014 - [Domestic violence - men's behaviour change programs](#).

### Northern Territory. Department of Health

29 January 2014 - [Numbulwar Water Boil Alert](#) has been issued for Numbulwar following the detection of the E.Coli bacteria in the community's water supply.

29 January 2014 - [Measles Alert - fourth case](#). The centre for disease control (CDC) has issued a further alert for measles following the confirmation of a fourth case in the last two weeks. All cases are Australians and are related directly or indirectly to international travel.

### Queensland (QLD). Department of Health (DH)

27 January 2014 - ["Long Waits" at QLD hospitals slashed as reforms click-in](#). New figures confirm the number of Queenslanders waiting too long for urgent or semi urgent surgery at the State's public hospitals have almost halved in less than two years.

30 January 2014 - [Labor's desperate Redcliffe lies debunked](#). Labor's dishonest Redcliffe by-election campaign has been exposed, after claims by candidate Yvette D'Ath were rejected by the local hospital.

### South Australia. Department for Health & Ageing

24 January 2014 - [Nominations open for South Australia's nursing and midwifery Excellence Awards](#).

24 January 2014 - Working group to look at older driver changes established. The Working Group that will look at the Government's plans to remove mandatory medical testing of older drivers has been established. [Read more](#).

24 January 2014 - New chemotherapy and chaplain services for Gawler Cancer patients in the Gawler area can now receive their treatment closer to home, following the opening of a brand new \$623,000 chemotherapy unit at Gawler Health Service by Health Minister Jack Snelling today. [Read more](#).

29 January 2014 - Dialysis truck hits the road. A mobile dialysis truck which enables renal dialysis patients to visit their home communities in the most remote areas of the state has been officially unveiled. [Read more](#).

29 January 2014 - More organ donors in South Australia in 2013. South Australians are continuing to prove their generosity when it comes to organ and tissue donation. [Read more](#).

29 January 2014 - No overdue elective surgery patients South Australia's public hospitals elective surgery performance has continued to improve significantly, with no overdue patients waiting for surgery at the end of 2013. [Read more](#).

27 January 2014 - Fewer drunks presenting to Royal Adelaide hospital emergency department (RAH ED) since late night alcohol crackdown Hon Jack Snelling MP. The number of early morning alcohol related presentations to the Royal Adelaide Hospital has sunk by almost a third since the introduction of a new package of alcohol reforms last year. [Read more](#).

30 January 2014 - Feedback sought on advance care directive do-it-yourself (DIY) kit. A new DIY advance care directive kit which will help people to make clear legal arrangements for their future health care and personal affairs, has been released for public consultation. [Read more](#).

30 January 2014 - South Australia's public hospitals lead the way We have the highest ratio of doctors and nurses of all the states and South Australia's public hospitals have some of the best elective surgery and Emergency Department waiting times in the country, according to a national report released today. [Read more](#).

### Victoria. Department of Health

28 January 2014 - [Timely advice to avoid the effects of summer heat](#). Victorians have been put on alert to plan for the heat, with soaring temperatures predicted for the weekend.

26 January 2014 - [Dedicated paramedics honoured for Australia Day](#). Minister for Health David Davis today paid tribute to the extraordinary work of four Victorian paramedics who today received Australia Day honours for their distinguished careers.

31 January 2014 - [Victoria's first comprehensive cardiac plan](#). The Victorian Coalition Government today released the state's first comprehensive plan to prevent heart disease and boost access to vital cardiac care services.

30 January 2014 - [Report underlines Victoria's reforms to mental health treatment, care and recovery](#). The Victorian Coalition Government's focus on supporting people with mental illness to live well in the community has been underlined by the Productivity Commission's Report on Government Services (RoGS).

29 January 2014 - [Healthy Equal Youth \(HEY\) grants applications now open for youth mental health support](#). A new round of grants are available for groups and organisations to support and promote mental health initiatives for gay, lesbian, bisexual, transgender and intersex young (GLBTI) people in local communities, Minister for Mental Health Mary Wooldridge announced today.

24 January 2014 - [Coalition investment is improving safety and wellbeing of women in mental health facilities](#). The Victorian coalition government is investing over \$6 million to improve the safety of women in mental health inpatient units across Victoria, Minister for Mental Health Mary Wooldridge said today.

### Western Australia (WA). Department of Health

Operational Directives (OD)

29 January 2014 - [Statewide telehealth service use policy](#) - The aim of the policy is to provide a framework which will enable all users of the WA statewide telehealth service infrastructure and resources to deliver and receive safe, appropriate and high quality services. In doing so the policy also describes the principles, roles and responsibilities for identifying, implementing and evaluating relevant telehealth service standards to ensure these high quality services.

29 January 2014 - [Homeopathic Immunisation](#) - This OD is designed to advise Department of Health (DOH) staff of the DOH's policy regarding the use of homeopathic immunisation to protect individuals against vaccine preventable diseases.

### New Zealand. Ministry of Health

27 January 2014 - [Authority removes five products from sale](#).

27 January 2014 - [Suicide Facts: Deaths and intentional self-harm hospitalisations 2011](#).

28 January 2014 - [Measles cases identified – updated](#).

### United Kingdom. Department of Health (DH)

30 January 2014 - [Ensuring doctors have sufficient English language capability](#). Consultation outcome.

30 January 2014 - [National Health Service \(NHS\) Bursary Scheme rules](#). Guidance.

30 January 2014 - [DH workforce information: 2013](#). Transparency data.

24 January 2014 - [NHS Pension Scheme: proposed changes to regulations](#). Consultation outcome.

### United States of America. Department of Health & Human Services

30 January 2014 - [Medicare's delivery system reform initiatives achieve significant savings and quality improvements - off to a strong start](#).

### Australian Medical Association (AuMA)

30 January 2014 - [AuMA Speech - AuMA President Dr Steve Hambleton, Australian healthcare and hospital association \(AHHA\) Medicare Anniversary Roundtable](#). Speech to AHHA Medicare anniversary roundtable old Parliament House Canberra 30 January 2014. [Read more](#).

### British Medical Association (BMA)

30 January 2014 - [BMA counting cost of lobbying bill defeat](#). A BMA-supported change on staff costs in controversial lobbying legislation has been defeated at the last minute.

29 January 2014 - [Opening of private medical school concerns student leaders](#). The UK's first private medical school has opened its doors.

28 January 2014 - [Doctors question reason for operations delays](#). Doctors leaders have questioned a health board's reasons for delaying planned operations in north Wales.

28 January 2014 - [BMA welcomes further proposals to protect children against smoking](#). Proposals to give children greater protection against smoking have been welcomed by the BMA.

### Canadian Medical Association

27 January 2014 - [Another sold-out conference expected as interest in MD leadership mushrooms](#). As online registration opens for the 2014 Canadian Conference on Physician Leadership (CCPL), interest in the subject matter appears to be reaching new heights.

### American Medical Association (AMA)

27 January 2014 - [How physicians are compensated—New study reveals payment methods](#). New data on physician compensation methods show that many physicians in non-solo practice settings are paid through a blend of methods, and salary was reported as the most common type of compensation.

28 January 2014 - [Development of evidence-based medicine explored in oral history video](#). A new video released through the JAMA Network and the BMJ captures the achievements of evidence-based medicine (EBM) and covers what remains to be done, as explained by pioneers in the field.

29 January 2014 - [Where cost and quality converge: starting the patient conversation](#). It can be hard to communicate to a patient—or the patient's family—that a particular procedure or treatment option may be unnecessary, writes AMA President Ardis Dee Hoven, MD, in her latest AMA Viewpoints blog post. But as physicians, it's up to us to start that conversation to ensure our patients are receiving only the right care at the right time.

29 January 2014 - [States exploring innovative medical liability reforms](#). At a time when getting lawmakers to take up traditional medical liability reforms has become increasingly challenging, states are beginning to turn to innovative options for reform.

30 January 2014 - [Accreditation Council for Graduate Medical Education \(ACGME\) releases new expectations for residency training](#). A new roadmap for improving residents' professional skills was released Tuesday by the ACGME. The Pathways to Excellence document is the latest development in the clinical learning environment review (CLER) program, an ongoing initiative to assess the learning environment at each accredited teaching institution.

## ABOUT US

### Michael Regos



Michael is the head of the DLA Piper health litigation group.

He practises in the areas of health law, insurance law, medical negligence and coronial enquiries. He represents Victorian public hospitals and their insurers, the Victorian Managed Insurance Authority and is the solicitor of choice for Australia's second-largest private health operator.

Michael regularly presents to medical groups and hospitals on medico-legal issues.

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