



HEALTH ALERT

19 MAY 2014

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JUDGMENTS

Commonwealth

13 May 2014 - [Sklavos v Australasian College of Dermatologists \[2014\] FCA 476](#)

This was a Federal Court interlocutory application to set aside subpoenas requesting income details and tax returns from 11 specialist dermatologists at various stages of their careers.

The subpoenas were issued in relation to proceedings brought by a medical practitioner against the Australasian College of Dermatologists. The practitioner alleges that the College engaged in unlawful conduct by refusing to admit him as a Fellow and specialist dermatologist. He claims he suffered economic loss as a result. The subpoenas were issued in an attempt to obtain evidence showing his earning capacity as a Fellow and specialist dermatologist compared to his earning capacity as a Trainee and/or general practitioner.

The applicants argued that the subpoenas should be set aside because the documents are highly confidential, disclosing their private and personal affairs. They also submitted the documents could only have a marginal and speculative relevance to issues in the proceedings.

The Court dismissed the application, allowing the subpoenas. The Court was satisfied the test of apparent relevance was met because the income and expenditure of dermatologists in the Sydney area was relevant to the practitioner's claim in a manner which was not unreal, fanciful or speculative. The Court found that confidentiality is not, of itself, a reason to set aside a subpoena. However, the Court imposed a suitable confidentiality regime to be agreed by the parties.

United Kingdom

14 May 2014 - [Wissa v Associated Newspapers Limited \[2014\] EWHC 1518 \(QB\)](#)

This was an application by Associated Newspapers Ltd to the England and Wales High Court (Queens Bench Division) for an order that a libel action brought against them by a general practitioner be struck out.

The libel action arose from the reporting of the death of a young man who was the patient of the practitioner. Associated Newspapers Ltd put a publication on its website titled, "Patient 34 died from a brain tumour the size of a tennis ball after three doctors mistook symptoms for depression". The practitioner alleged the publication was defamatory in claiming that the diagnosis of depression was wrong and that the General Medical Council had found the care given by him was below the standard of a reasonably competent general practitioner.

The applicants argued that the claim should be struck out because it failed to set out in the Particulars of Claim an extract with the precise words complained of. The practitioner submitted it was sufficient because he identified the article by its title and the URL on which it was published.

The Court struck out the libel claim. In all cases for libel there must be reasonable certainty as to the words complained of and they must be set out word for word. The Court determined that the URL did not, by itself, identify particular words. Also, as there were multiple versions of the article available at different times from that URL it was not clear on which specific words the practitioner wished to rely.

New South Wales

14 May 2014 - [Dr A and Local Health District \(No 2\) \[2014\] NSWIRComm 22](#) Unfair dismissal - interlocutory proceedings - notice of motion - application by respondent to interpose witness - consideration of competing contentions - insufficient basis to refuse application given witness travelling overseas before trial dates set and will not return - Order allowing witness to be interposed.

13 May 2014 - [Health Care Complaints Commission v Naiyer \(No 1\) \[2014\] NSWCATOD 54](#) Medical Practitioner - complaints of unsatisfactory professional conduct and professional misconduct-stage 1 hearing conducted - factual findings made-proceedings stood over for stage 2 hearing on appropriate relief.

9 May 2014 - [Greyling v Nursing and Midwifery Board of Australia \[2014\] NSWCATOD 52](#) Application for stay - Proceedings by same applicant in Tribunal and Federal Circuit Court - Whether appropriate to

adjourn appeal proceedings - where allegations of discrimination under federal legislation by National Board in refusing registration asserted by applicant. Whether only Tribunal could determine registration issue - whether Federal Circuit Court proceedings only jurisdiction available to determine discrimination issue.

LEGISLATION

Commonwealth

15 May 2014 - [Australian National Preventive Health Agency \(Abolition\) Bill 2014](#).

15 May 2014 - [Health Workforce Australia \(Abolition\) Bill 2014](#).

8 May 2014 - [Statement of Principles concerning chronic multisymptom illness No. 56 of 2014](#).

8 May 2014 - [Statement of Principles concerning chronic multisymptom illness No. 55 of 2014](#).

8 May 2014 - [Statement of Principles concerning malignant neoplasm of the prostate No. 54 of 2014](#).

8 May 2014 - [Statement of Principles concerning malignant neoplasm of the prostate No. 53 of 2014](#).

15 April 2014 - [Health Insurance \(Accredited Pathology Laboratories - Approval\) Amendment Principles 2014 \(No. 1\)](#).

Western Australia

14 May 2014 - [Alcohol and Drug Authority Amendment Bill 2014](#).

REPORTS

Australia. Department of Health & Ageing

Media releases

10 May 2014 - [More Funding for Australia's Athletes](#). 650 of Australia's best athletes will benefit from a newly designed program that reallocates \$1.6 million directly towards our best medal hopes and emerging talent.

10 May 2014 - [Nutrition Survey Gives Insight on Australia's Diet](#). The Assistant Minister for Health, Fiona Nash, has welcomed yesterday's release of the first nutrition results from the 2011-13 Australian Health Survey by the Australian Bureau of Statistics.

9 May 2014 - [New CEO for ASADA](#). The Minister for Sport Peter Dutton has appointed Australian Crime Commission Queensland Manager Ben McDevitt as the new Chief Executive Officer of the Australian Sports Anti-Doping Authority (ASADA).

Private Health insurance (PHI) Circulars

14 May 2014 - [PHI 32/14 New Public Hospital Information](#).

9 May 2014 - [PHI 31/14 Private Hospital Information](#).

Australia. Health Practitioner Regulation Agency and the boards

15 May 2014 - The National Board is reminding nurses and midwives that there are just over two weeks left for timely registration renewals. [Read Article](#).

15 May 2014 - National Board invites participants to focus groups to explore potential models of supervision for privately practising midwives. [Read Article](#).

14 May 2014 - Call for applications for health practitioners to join the Chiropractic Board of Australia's list of approved persons for appointment to panels. [Read Article](#).

14 May 2014 - The Osteopathy Board releases a fact sheet about using the title 'acupuncturist'. [Read Article](#).

14 May 2014 - The Pharmacy Board of Australia releases its latest communiqué. [Read Article](#).

13 May 2014 - The Nursing and Midwifery Board of Australia has published a request for tender to review the Midwife standards for practice. [Read Article](#).

13 May 2014 - The National Board has updated the fact sheet on criterion 8 for registered nurses to include midwives. [Read Article](#).

13 May 2014 - The Podiatry Board of Australia releases its latest communiqué. [Read Article](#).

Australia. National Health & Medical Research Council (NHMRC)

14 May 2014 - [Additional commentary on the outcomes of the 2014-15 Federal Budget for NHMRC](#) I am pleased to provide an update on key announcements in the 13 May Federal Budget related to the National Health and Medical Research Council. The Government is providing additional funding for two budget measures: Boosting dementia research (\$200.0 million) The Australia Government will provide an additional \$200 million over five years to boost Australia's dementia research capacity. [Read more](#).

13 May 2014 - [Outcomes of the 2014-15 Federal Budget for NHMRC](#) I am pleased to provide an update on key announcements in the 13 May 2014-15 Federal Budget related to the National Health and Medical Research Council. NHMRC will receive additional funding for two budget measures: Boosting dementia research (\$174.0 million) as part of the Australian government's commitment to provide \$200M for dementia research. [Read more](#).

16 May 2014 - [NHMRC Research Tracker](#).

May 2014 - [NHMRC Health Tracker](#).

Australia. Therapeutic Goods Administration

15 May 2014 - [MiniCap Extended Life Peritoneal Dialysis Transfer Set with Twist Clamp](#). Consumers and health professionals are advised that Baxter Healthcare is undertaking a recall of one lot of its MiniCap Extended Life Peritoneal Dialysis Transfer Set with Twist Clamp.

14 May 2014 - [Zhansheng Weige Cahoyue Xilishi tablets](#) pose a serious risk to your health and should not be taken.

14 May 2014 - [TGA presentation given at the pharmacotherapy global summit, 8 May 2014](#). This presentation provided an overview on the regulatory approval for polypill in Australia.

12 May 2014 - [Documents released under Section 11C of the Freedom of Information Act 1982](#).

12 May 2014 - [TGA presentation given at the ASMI workshop, 29 April 2014](#) This presentation provided an overview on evidence guidelines and checklists.

12 May 2014 - [Consultation: Software as a medical device \(IMDRF working group\)](#). The TGA (together with all other working group members) is inviting interested parties to comment on the software as a medical device (IMDRF working group). Closing date 31 May 2014.

9 May 2014 - [Complementary medicines: Cancellations from the ARTG following compliance review](#) Cancellation of Milk Thistle 35000 and Qianlietong Capsule from the ARTG.

Australian Institute of Health & Welfare

16 May 2014 - [Arthritis and other musculoskeletal conditions across the life stages](#).

12 May 2014 - [OECD health-care quality indicators for Australia 2011-12](#).

Australian Commission on Safety and Quality in Health Care

12 May 2014 - On the Radar – Issue 173 ([PDF 112KB](#)) ([Word 126KB](#)).

Australia. Private Health Insurance Administration Council

15 May 2014 - [Statistical Release – March 2014 — May 15, 2014](#).

Australia. National Mental Health Commission

[May 21 2013 update.](#)

[May 15 2013 update.](#)

New South Wales (NSW). Ministry of Health

Media Releases

15 May 2014 - [Green Light for Stage 2 of World-Class Cancer Centre and Research Centre at Randwick.](#)

14 May 2014 - [NSW Government Puts Patients First.](#)

12 May 2014 - [NSW Nurses honoured for their skill and compassion.](#)

9 May 2014 - [NSW Government Invests in New Beds for Tomaree Hospital.](#)

Policy Directives & Guidelines

14 May 2014 - [Maternity - Indications for Placental Histological Examination.](#)

Information Bulletins

14 May 2014 - [Child Death Review Team - Access to Records.](#)

13 May 2014 - [New State Forms for use by Audiometry Nurses in Community Based Hearing Services.](#)

12 May 2014 - [Compliance with NSW Government Goods and Services Procurement Policy Framework.](#)

Northern Territory. Department of Health

15 May 2014 - [Robyn Lambley - All on track for Palmerston regional hospital.](#) The Minister for Health Robyn Lambley says work is underway to deliver the bigger and better \$150 million Palmerston regional hospital.

14 May 2014 - [Robyn Lambley - First budget for the territory's disability services portfolio.](#) Budget 2014 represents the first budget for the Northern Territory's new Disability Services portfolio.

13 May 2014 - [Robyn Lambley - improving territory hospitals for a healthier future.](#) Budget 2014 represents the biggest injection of Northern Territory Government funding into our hospitals, to expand, improve and maintain services for all Territorians.

13 May 2014 - [Robyn Lambley - Investing in greater health outcomes for all territorians.](#) Budget 2014 represents the biggest Northern Territory Government investment in health.

9 May 2014 - [Robyn Lambley - nursing and midwifery award winners announced.](#) Minister for Health Robyn Lambley has congratulated the 12 award recipients in this year's Northern Territory Nursing and Midwifery Excellence Awards.

Queensland. Department of Health

16 May 2014 - [Gold Coast performance is on the increase.](#) Increasing public hospital activity, performance and capacity provided by the new Gold Coast University Hospital (GCUH) is revealed in the results of state-wide health performance testing to be published by the State Government on Monday.

16 May 2014 - [Health of Cairns in good shape.](#) The Cairns long wait elective surgery waiting list has been slashed and patients are spending less time in the emergency department, according to the latest quarterly performance figures.

16 May 2014 - [Mount Isa performs well in quarterly hospital performance report.](#) Mount Isa Hospital is continuing to set high standards of care, with its Emergency Department and elective surgery performance being lauded in the latest performance data released by the State Government.

16 May 2014 - [West Moreton looking fit for the future](#). West Moreton Hospital and Health Service has passed its first quarter health performance check-up for 2014 with flying colours and has set itself up for a bright future.

16 May 2014 - [Townsville Hospital patients seen faster](#). Patients waiting for surgery at the Townsville Hospital are being seen faster than ever, the latest Queensland Health performance data reveals.

16 May 2014 - [Healthy result for the Wide Bay Hospital and Health Service](#). Local hospitals are delivering better results for patients across the Wide Bay region with more residents receiving surgery on time, according to the latest performance data.

16 May 2014 - [More health capacity, activity on the Sunshine Coast](#). Increased public hospital activity, capacity and performance on the Sunshine Coast have been highlighted by new waiting list performance data to be published by the Queensland Government on Monday.

15 May 2014 - [Queensland health system leading the nation](#). Queenslanders are waiting less time for ambulances, on dental waiting lists and in emergency departments than ever before according to data released today.

14 May 2014 - [Better health services for rural, regional Queensland](#). New funding will continue to improve frontline health services in rural and regional Queensland, widening the scope of services and delivering on key election promises.

South Australia (SA). Department for Health & Ageing

15 May 2014 - Crisis meeting called to address Federal Budget health cuts The state's health leaders will meet today following the savage cuts to health announced in Tuesday's Federal Budget. [Read more](#).

11 May 2014 - Businesses caught selling cigarettes to minors on the decrease Two service stations in the eastern suburbs have been fined for selling cigarettes to minors as part of SA Health's latest controlled purchase operation. [Read more](#).

10 May 2014 - SA's most injury prone sports revealed New figures released today by the State Government show the top ten most injury prone sports in South Australia. [Read more](#).

10 May 2014 - Nurses and midwives recognised at awards night South Australia celebrated its dedicated and hard-working nurses and midwives at the 14th annual SA Nursing and Midwifery Excellence Awards last night. [Read more](#).

Tasmania. Department of Health & Human Services

12 May 2014 - [Disability community access centre launched](#).

12 May 2014 - [Scholarships in radiation sciences](#).

Victoria. Department of Health

14 May 2014 - [Minister honours inspirational healthcare volunteers](#). Minister for Health David Davis today recognised the inspirational volunteers across the state who selflessly give their time to support patients within Victoria's health system.

12 May 2014 - [Update: Suspected contamination of "Provive" Propofol](#).

12 May 2014 - [Rogue union action puts patients at risk](#). Rogue action by the ambulance union threatens to put the lives of country patients at risk, Minister for Health David Davis said today.

Western Australia. Department of Health

Media Releases

12 May 2014 - [Investing in Infrastructure to Grow the State - State Budget 2014-15: New \\$15million paediatric ward for northern suburbs](#).

Operational Directives (OD)

15 May 2014 - [OD 0521/14 Clinical Incident Management Policy \(2012\) Updated February 2014](#) On 1 February 2014, the new web based Datix Clinical Incident Management System (CIMS), was released

across WA Health. The new Datix CIMS will enable more efficient real time notification and management of clinical incidents and in particular, SAC 1 clinical incidents which result in serious harm or death. With the implementation of the new Datix Clinical Incident Management System (CIMS) on 1 February 2014, minor CIM Policy edits have been made reflecting the move from a paper based reporting system to the online Datix CIMS in WA Health.

15 May 2014 - [OD 0520/14](#) WA Health Employee Breastfeeding Policy WA Health Employee Breastfeeding Policy.

15 May 2014 - [OD 0519/14](#) Hospital Fees and Charges: Nursing Home Type Patient (20 March 2014 Pension Increase) This operational directive advises Health Services of increases in Nursing Home Type Patient (NHTP) fees, which were gazetted on 24 April 2014. In accordance with the commencement instructions in the gazette, the revised NHTP fees are effective from the day after gazettal, which is 25 April 2014.

New Zealand. Ministry of Health

16 May 2014 - [Asbestos at primary school.](#)

13 May 2014 - [Mortality: Historical summary 1948–2010.](#)

12 May 2014 - [Auditory Processing Disorder: New Zealand Review.](#)

United Kingdom. Department of Health

15 May 2014 - [Care Bill becomes Care Act 2014.](#)

14 May 2014 - ['Veterans First' wins mental health award.](#)

United States of America. Department of Health & Human Services

13 May 2014 - [US and EU progress in fight against antimicrobial resistance.](#)

13 May 2014 - [Medicare Fraud Strike Force charges 90 individuals for approximately \\$260 million in false billing.](#)

13 May 2014 - [Accreditor for ONC Health IT Certification Program approved for second term.](#)

Australian Medical Association (AuMA)

16 May 2014 - [Budget blow to Indigenous health.](#) AuMA Vice President, Professor Geoffrey Dobb, said today that Indigenous health agencies, services and programs have suffered in this week's Federal Budget.

13 May 2014 - [Health Budget full of pain for patients.](#) AuMA Vice President Professor Geoffrey Dobb said tonight that the 2014 health Budget is full of pain for patients.

13 May 2014 - [Medicare Locals In Need Of A Shake-Up.](#) The AuMA shares the view of the Horvath Review of Medicare Locals that the organisations need a major overhaul.

British Medical Association (BMA)

15 May 2014 - [BMA helps GPs back fair NHS purchases.](#) A BMA guide to help GPs champion fair and ethical standards in NHS commissioning published this week.

15 May 2014 - [GP experts debate ways to save primary care.](#) GP leaders and health policy experts were debating the challenges facing general practice today at a an event co-hosted by the BMA and Nuffield Trust.

15 May 2014 - [Alcohol and drug deaths still too high.](#) Avoidable deaths linked to drink and drugs continue to be higher in Wales than England, according to new Office for National Statistics figures.

15 May 2014 - [Concerns medical innovation bill allows 'reckless practice.'](#) Major concerns about proposed legislation that focuses on redefining clinical negligence 'could encourage reckless practice' and should not become law, says the BMA.

14 May 2014 - **GPs warn cancer referrals are getting lost in the system.** Family doctors have expressed concerns about urgent cancer referrals getting lost in the system.

13 May 2014 - **BMA launches general practice investment campaign.** The BMA has launched a major campaign calling for long-term, sustainable investment to tackle the pressures facing general practice.

Canadian Medical Association (CMA)

9 May 2014 - **Informed discussion characterizes Regina end-of-life town hall.**

6 May 2014 - **Best practices in physician health available on podcast.**

American Medical Association (AMA)

14 May 2014 - **AMA, others support California's caps on damages law.** Physicians in California could lose valuable protections of the Medical Injury Compensation Reform Act (MICRA) if a case before the state supreme court isn't reversed.

14 May 2014 - **Physicians need cost, outcomes data, not Medicare claims data.** The Centers for Medicare & Medicaid Services released its raw physician Medicare claims data in an effort to promote transparency, but that data won't help physicians improve care and be more judicious with health care resources, AMA President Ardis Dee Hoven, MD, writes in an AMA Viewpoints blog.

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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