



HEALTH ALERT

26 AUGUST 2013

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JUDGMENTS

Commonwealth. High Court of Australia

16 August 2013 - [Almario v Varipatis](#) [2013] HCATrans 193

Mr Almario brought a negligence action against his general practitioner (GP) claiming that Dr Varipatis was responsible for the consequences of his pre-existing liver disease progressing to cirrhosis, liver failure and eventually liver cancer.

At trial, Mr Almario argued that a reasonable GP in Dr Varipatis' position ought to have known that his health problems were caused by morbid obesity and related conditions, not toxic exposure.

The court agreed, finding Dr Varipatis to be negligent in:

1. Failing to refer Mr Almario to a bariatric surgeon for consideration of bariatric surgery;
2. Failing to take the appropriate steps to refer Mr Almario to an obesity clinic; and
3. Failing to refer Mr Almario to a hepatologist for investigation and treatment of his liver condition.

Conversely, the Court of Appeal found that in relation to the reasonable care required of a GP in the circumstances:

- The only obligation is to advise that weight loss is necessary to protect the patient's health, discuss means by which that may be achieved and offer and encourage acceptance of referrals; and
- Expert evidence supported that at the relevant time an endocrinologist, not a GP, would reasonably have been expected to refer to a bariatric surgeon.

Mr Almario applied for special leave to appeal, arguing that the Court of Appeal had made the incorrect conclusion and the trial judge's decision should stand. The High Court found there were "insufficient reasons to doubt the correctness of the Court of Appeal's decision." Special leave was refused.

Western Australia. State Administrative Tribunal

9 August 2013 - [Medical Board of Australia and Boyd](#) [2013] WASAT 123

The medical Board of Australia made a number of allegations against Dr Boyd in relation to her participation in the unapproved alternative treatment of seven cancer patients. The treatment took place at Dr Boyd's private residence and she received substantial payment for her involvement. It alleged that Dr Boyd's conduct amounted to infamous or improper conduct in a professional respect, gross carelessness and incompetency.

Dr Boyd admitted to aiding the treatment by providing the premises but was adamant that she was otherwise not involved, except for ordering blood tests for the patients, and had not agreed to oversee the patients' treatment. She maintained that the treatment was mainly administered by two nurses and supervised by Mr Sartori, the deviser of the treatment, who had been refused entry to Australia at the time.

The Tribunal found that all allegations were made out. Each of its findings concerned either Dr Boyd's "involvement in an unproven and clearly dangerous treatment with indifference to the patients and proper professional standards or...with attempts to minimise the possibility of the detection of her participation." The Tribunal also determined that her involvement was far greater than she had claimed and that she had failed to comply with the legal requirements for the supply of laetrile, a prohibited substance.

Dr Boyd had already surrendered her registration. Nevertheless, the Tribunal ordered her name be removed from the Register. In deciding this, the principle consideration was the public's protection, especially given Dr Boyd's lack of insight into her involvement.

South Australia. Coroners Court

19 August 2013 - [Inquest into the death of John William Moxon](#) 5/2013 (0348/2011)

Death in custody - natural causes - death from advanced motor neuron disease leading to terminal respiratory failure - whether earlier or different clinical management would have extended life expectancy.

LEGISLATION

Commonwealth

14 August 2013 - [National Health Act \(pharmaceutical benefits - early supply\) amendment September 2013 - specification under subsection 84AAA\(2\) \(No. PB 60 of 2013\)](#) F2013L01581 • PB 60 of 2013 as made.

9 August 2013 - [National health \(listing of pharmaceutical benefits\) amendment instrument 2013 \(No. 10\) \(No. PB 53 of 2013\)](#) F2013L01580 • PB 53 of 2013 as made.

14 August 2013 - [National health \(listed drugs on F1 or F2\) amendment determination 2013 \(No. 4\) \(No. PB 58 of 2013\)](#) F2013L01585 • PB 58 of 2013 as made.

15 August 2013 - [National health \(weighted average disclosed price - supplementary disclosure cycle B\) determination 2013 \(No. PB 55 of 2013\)](#) F2013L01593 • PB 55 of 2013 as made.

Victoria

[Radiation Amendment Bill - to prohibit the commercial operation of tanning units and other purposes](#). First reading 20 August 2013, Second reading - date moved 21 August 2013.

REPORTS

Australia. Department of Health & Ageing

*The government is in caretaker mode, so no media releases are being issued.

Private Health Insurance (PHI) Circulars

16th August 2013 - [PHI 55/13 - August 2013 prostheses list](#).

Australian Commission on Safety and Quality in Health Care

19 August 2013 - [On the radar – issue 140 \(96KB\)](#).

Australia. Consumers Health Forum

22 August 2013 - [Coalition places health on the election agenda](#). Health consumers have welcomed the "Coalition's policy to support Australia's health system" released today as an important initiative to ensure Australians concerned about healthcare have a better understanding of what the Coalition will do in government to strengthen health services.

21 August 2013 - [\\$1.8 billion drug savings the right medicine for consumers and taxpayers](#). The latest cuts to drug prices announced by the government today are welcome news for taxpayers and people who struggle to meet their medicine bills, says the Consumers Health Forum (CHF), CHOICE and the Australian Council of Social Service (ACOSS).

20 August 2013 - [Stand up for cheaper medicines](#). The CHF, CHOICE and ACOSS have joined together on a new campaign to highlight the heavy prices Australian people pay for prescription medicines.

20 August 2013 - [Australia needs healthy debate](#). It's time the big parties came out of hiding on central health issues like out of pocket costs, says CHF Chief Executive Officer (CEO), Carol Bennett. "We support the call by the Greens for an inquiry into rising direct health costs which confront so many families and senior Australians," Ms Bennett said. "Many national community groups including CHF have sought to highlight the burden of out-of-pocket health costs which in Australia are among the highest in the world.

Australian Institute of Health & Welfare

23 August 2013 - [Expenditure on health for Aboriginal and Torres Strait Islander people 2010-11 : an analysis by remoteness and disease media release](#).

20 August 2013 - [National framework for protecting Australia's children 2009-2020: technical paper on operational definitions and data issues for key national indicators](#).

21 August 2013 - [Trends in hospitalised injury, Australia: 1999-00 to 2010-11](#).

Australia. National Health & Medical Research Council (NHMRC)

16 August 2013 - [How we deal with alleged research misconduct: NHMRC - The conversation article](#) by Professor Warwick Anderson AM, CEO NHMRC, as published online via the conversation, 16 August 2013. | [Read more](#)

Australia. Health Practitioner Regulation Agency and the boards

19 August 2013 - Medical radiation practice Board of Australia. Vacancies for committee members - call for nominations and/or expressions of interest for appointment to the workforce innovation and reform working party of the medical radiation practice Board of Australia. | [Read more](#)

15 August 2013 - Australian nursing and midwifery accreditation council standards review. The national Board encourages stakeholders to participate in the Australian nursing and midwifery accreditation council's consultations on accreditation standards. | [Read more](#)

20 August 2013 - The optometry Board of Australia releases its latest communiqué. | [Read more](#)

16 August 2013 - The Chinese medicine Board of Australia releases its latest communiqué. | [Read more](#)

19 August 2013 - The medical radiation practice Board of Australia releases its August newsletter. | [Read more](#)

Australia. Health Quality and Complaints Commission

9 August 2013 - [Review and follow up of patient results in hospital-based day procedure clinics.](#)

Australia. Therapeutic Goods Administration (TGA)

23 August 2013 - [Business process review: minor variations to prescription medicines](#) - for sponsors. On 22 May 2013, the TGA introduced changes to administrative processes for making minor variations to prescription medicines. These changes are now fully implemented.

23 August 2013 - [Frequently asked questions for sponsors: new business processes for minor variations to prescription medicines.](#) Updated answers to some of the frequently asked questions from sponsors regarding the new business processes for minor variations to prescription medicines.

19 August 2013 - [Complementary medicines: cancellations from the Australian register of therapeutic goods \(ARTG\) following compliance review.](#) Cancellation that took effect on 16 August 2013 (GanoMax).

16 August 2013 - [Advisory committee on the safety of medical devices \(ACSMD\) meeting statement, Meeting 4, 8 August 2013.](#) The ACSMD provides advice to the TGA on matters relating to the safety, risk assessment, risk management and performance of medical devices supplied in Australia.

Australia. National Audit Office

14th August 2013 - [Administration of the agreements for the management, operation and funding of the Mersey community hospital](#) in Tasmania.

Australia. Mental Health Council of Australia (MHCA)

22 August 2013 - [MHCA welcomes productivity commission inquiry announcement.](#) The mental health council of Australia has today welcomed the government's support for a productivity commission inquiry into the mental health system.

21 August 2013 - [Push to end discrimination in the insurance industry.](#) Beyondblue and the mental health council of Australia are stepping up their campaign to end practices in the Australian insurance industry that may discriminate against people with a mental illness.

Australia. Parliament. House of representatives Committees

[Roundtable on late effects of polio/post-polio syndrome](#) (completed) tabled: 20 August 2012
Parliamentary paper: 199/2012 date of government response: time has not expired.

Australian Capital Territory. Health Directorate

19 August 2013 - [Charge stations keeping Canberra hospital visitors connected.](#)

Northern Territory. Department of Health

22 August 2013 - [Robyn Lambley - Labor's plans for new hospital meet the needs of yesterday.](#) The country Liberals government has labelled the funding announced today by the Federal Government for a new hospital at Palmerston as dishonest.

21 August 2013 - [Robyn Lambley - Great health gains made in 12 months.](#) A major overhaul of the public health system, and the greatest commitment to alcohol rehabilitation the Territory has ever seen, are among the achievements of the country Liberals government over the past 12 months.

20 August 2013 - [Robyn Lambley - Country Liberals boost cardiac services.](#)

21 August 2013 - [Robyn Lambley - Travel subsidies boosted for sick territorians.](#) Territorians who travel to receive specialist medical care will be much better off under the government's revised patient assistance travel scheme which comes into effect on 1 September.

Queensland. Department of Health

16 August 2013 - [Legionella testing update 16 August](#) (PDF, 169KB) and [Legionella report 16 August](#) (PDF 47KB).

21 August 2013 - [Health Ombudsman brings new accountability.](#) Queenslanders can expect a more accountable health complaints system following the passing of the Health Ombudsman Bill in Parliament last night.

South Australia. Department for Health & Ageing

16 August 13 - [Meningococcal case.](#)

Victoria. Department of Health

21 August 2013 - [Victoria bans commercial tanning units from 2015.](#) Commercial tanning units will be banned in Victoria from 2015, Minister for Health David Davis announced today.

21 August 2013 - [New Numurkah hospital now on display.](#) Numurkah community members can now get a good first look at their new hospital with the release of a detailed artist's impression of the new facility.

20 August 2013 - [Health groups demand return of fringe benefits tax \(FBT\) to health and hospital staff.](#) The Federal Labor government must reverse its decision to strip FBT entitlements for car leases from tens of thousands of health sector workers, Minister for Health David Davis said today.

18 August 2013 - [\\$11 million expansion for Austin short stay unit.](#) More patients would receive medical attention sooner with an \$11 million expansion of the Austin hospital's short stay unit, Minister for Health David Davis said today.

19th August 2013 - [Clinical mental health service catchments - consultation paper.](#)

Western Australia. (WA) Department of Health

Media releases

22 August 2013 - [Cancer cases on the rise.](#)

Publications

20 August 2013 - [WA health performance report – April to June 2013 quarter \(PDF 721KB\).](#)

20 August 2013 - [Meningococcal disease infection - 12th case notified.](#)

New Zealand. Ministry of Health

20 August 2013 - [Monitoring of new disease strengthened.](#) New Zealand has added a novel coronavirus identified in the Middle East to the schedule of notifiable diseases. | [Read more](#)

21 August 2013 - [Psychoactive Substances Act interim licensing period closes](#). The psychoactive substances regulatory authority says the first part of the establishment of the new law has been completed, with the ending last week of a 28 day application period for interim licensing. | [Read more](#)

United Kingdom. (UK) Department of Health

22 August 2013 - [UK to host G8 dementia summit](#).

22 August 2013 - [Funding opens to support voluntary organisations that improve health and social care](#).

20 August 2013 - [Millions of patients to benefit from easier access to medication and fewer trips to hospitals](#).

21 August 2013 - [Honours: recognising contributions to health and care](#).

21 August 2013 - [The world-wide challenge of dementia](#).

20 August 2013 - [Extending the street triage scheme: New patrols with nurses and the police](#).

16 August 2013 - [New Non-Executive Director announced for Health Education England](#).

United States of America. Department of Health & Human Services (HHS)

22 August 2013 - [Pennsylvania champions for coverage partner with Obama administration to help Americans understand the health insurance marketplace](#).

19 August 2013 - [HHS launches partnership and video contest with young invincibles](#).

Australian Medical Association (AMA)

16 August 2013 - [AMA supports Senate inquiry call for air quality health checks](#). AMA President, Dr Steve Hambleton, today commended the Senate Community Affairs Reference Committee report, *Impacts on health of air quality in Australia*, which responds strongly to community concerns about the health effects of air pollution. | [Read more](#)

18 August 2013 - [New rules should boost vaccination rates](#). AMA President, Dr Steve Hambleton, said today Australia's vaccination rates should increase under new rules proposed by the Government. | [Read more](#)

18 August 2013 - [Labor health package would build hospital capacity and expand important health services](#). AMA President, Dr Steve Hambleton, today welcomed the Labor promise to provide \$346 million of new funding for Australia's health and hospital system. | [Read more](#)

20 August 2013 - [Medical research sector promised much-needed support](#). AMA President, Dr Steve Hambleton, said today that the medical research sector would benefit from the government's pledge to deliver a \$250 million medical research innovation fund, if re-elected. | [Read more](#)

21 August 2013 - [AMA calls on major parties to back greens' policy on alcohol advertising to kids](#). AMA President, Dr Steve Hambleton, today welcomed the Greens' policy to ban the promotion of alcohol during kids' television viewing times and urged the major parties to adopt similar policies. | [Read more](#)

22 August 2013 - [Coalition has been listening on health policy](#). AMA President, Dr Steve Hambleton, said today that the Coalition has delivered a strong package of practical, affordable health policies that would strengthen general practice, the cornerstone of quality primary health care in Australia. | [Read more](#)

British Medical Association (BMA)

14 August 2013 - [BMA response to national health scheme \(NHS\) England's GP call to action](#). Responding to NHS England's "Improving general practice – call to action", Dr Richard Vautrey, Deputy Chair of the BMA's GP committee, said: "It is important that clinicians, NHS England and the government work together to find solutions to the challenges facing the NHS." The call to action contains a number of positive starting points that the BMA will be happy to discuss further with NHS England.

20 August 2013 - **Trust targets paediatric care following clinical supervision complaints.** A senior paediatrician has been recruited at a hospital from where trainees were removed because of concerns about clinical supervision.

21 August 2013 - **International fees soar to £200k for a degree.** Cambridge is the most expensive medical school for international students who must pay almost £200,000 for their degrees.

21 August 2013 - **BMA seeks assurances on remediation funds.** The BMA has expressed concern about the lack of progress in meeting remediation funding commitments for some GPs.

22 August 2013 - **Answers needed on prescribing skills test.** Urgent issues need to be tackled before a nationwide assessment of prescribing skills is rolled out next year, medical student leaders insist.

Canadian Medical Association (CMA)

19 August 2013 - **Seniors' care now a dominant Canadian concern: CMA survey.**

19 August 2013 - **End of life issues discussion prompts thoughtful, insightful comments.**

Health Canada

20 August 2013 - **Reminding Canadians of potential safety concerns with home canning.**

20 August 2013 - **ZELBORAF (vemurafenib) - Risk of progression of certain types of cancer and risk of serious rash - for health professionals.**

American Medical Association

21 August 2013 - **A program for improved blood pressure control.** To compare rates of hypertension control in a large scale regional hypertension program with state wide and national estimates, Jaffe and co-authors report details of the development and implementation of a program in northern California and its associated results between 2001 and 2009.

22 August 2013 - American medical news - **Small doctor groups using IPAs to deliver care management.** Nationally, about 25 percent of physician groups belong to IPAs so they can afford care-coordination tools critical to achieving better patient outcomes.

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.

Contact Details

T +61 3 9274 5437

michael.regos@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

CANBERRA

Level 3, 55 Wentworth Avenue
Kingston ACT 2604
T +61 2 6201 8787
F +61 2 6230 7848
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

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

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