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JUDGMENTS

Commonwealth

12 November 2014 - [Hunter and New England Local Health District v McKenna; Hunter and New England Local Health District v Simon \[2014\] HCA 44](#)

Mr Pettigrove was involuntarily admitted to hospital under the *Mental Health Act* (NSW). Following psychiatric assessment, Pettigrove was discharged into his friend's (Mr Rose) custody. While Rose was transporting Pettigrove from the hospital to his mother's care, Pettigrove killed Rose.

Rose's relatives brought claims in the District Court of NSW for psychiatric injury allegedly suffered as a result of Rose's death. They claimed that the hospital and the doctor who assessed Pettigrove owed Rose and his relatives a duty of care to exercise reasonable professional care and skill, and that they breached this duty by discharging Pettigrove into Rose's custody.

The trial judge found that the hospital owed Rose and his relatives a duty of care, although this duty was not breached. The relatives succeeded on appeal to the Court of Appeal. The Health Authority then appealed to the High Court of Australia.

In determining whether the hospital owed Rose and his relatives a duty of care, the High Court noted inconsistencies between common law and the *Mental Health Act*. There is a common law duty on hospitals discharging mentally ill patients to give regard to the interests of those who might come into contact with that person when not detained. Conversely, the Act requires a mentally ill person to be released unless the medical superintendent of the hospital forms the opinion that no other less restrictive care is appropriate and reasonably available.

As a result of this inconsistency, the High Court held that the duty under the *Mental Health Act* prevailed - the hospital did not owe Rose or his relatives a duty of care.

Victoria

7 November 2014 (reasons 12 November 2014) - [Margaret McCready v Bendigo Health \[2014\] VSC 565](#)

Procedure – Circuit trials – Proper venue – Change of venue - Considerations – Rules 5.08, 47.01 *Supreme Court (General Civil Procedure) Rules 2005* (Vic).

LEGISLATION

Australian Capital Territory

[Mental Health \(Treatment and Care\) Amendment Bill 2014](#) Presented by: Minister for Health (GOV), Date presented: 15 May 2014 (8th Assembly), Amended in the Legislative Assembly, Passed: 30 October 2014, Notified: 12 November 2014

REPORTS

Australia. Department of Health

Media releases

14 November 2014 - [Take care of your sight this World Diabetes Day](#)

13 November 2014 - [Rural health workforce reforms the first step in fixing Labor's mess](#)

13 November 2014 - [Video message to the NACCHO AGM](#)

13 November 2014 - [Working together for better rural mental health](#)

7 November 2014 - [Logan Hospital Redevelopment to Benefit Local Community](#)

Australia. Health Practitioner Regulation Agency and the boards

13 November 2014 - Tribunal reprimands practitioner and imposes conditions on registration - The Queensland Civil and Administrative Tribunal has reprimanded Dr William Fitzgerald and imposed conditions on his registration as a medical practitioner in Australia. [Read More](#)

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

12 November 2014 - New approach to International criminal history check - From early 2015, National Boards and the Australian Health Practitioner Regulation Agency (AHPRA) will implement a new procedure for checking international criminal history. [Read More](#)

11 November 2014 - The Optometry Board of Australia releases its latest communiqué. [Read More](#)

10 November 2014 - Board confirms referral of Dr Nitschke to Tribunal - The Medical Board of Australia has referred Dr Phillip Nitschke to the Northern Territory Health Professional Review Tribunal for a hearing into his professional conduct. [Read More](#)

10 November 2014 - The Chiropractic Board of Australia releases its latest communiqué. [Read More](#)

10 November 2014 - The Dental Board of Australia releases its latest communiqué. [Read More](#)

10 November 2014 - The Occupational Therapy Board of Australia releases its latest communiqué. [Read More](#)

7 November 2014 - South Australian woman pleads guilty to pretending to be a psychologist - A SA woman has pleaded guilty in the Adelaide Magistrates Court of claiming to be a registered psychologist and using health practitioner titles protected under the National Law. [Read More](#)

Australia. Therapeutic Goods Administration (TGA)

14 November 2014 - [Problems with submitting some online forms on the TGA website \(www.tga.gov.au\)](#) - We did not receive some online forms submitted between 29 October and 12 November 2014

14 November - [Public submissions on scheduling matters referred to the ACCS#11 and the joint ACCS-ACMS#9](#) - Further public submissions on scheduling matters referred to the ACCS#11, July 2014 now available

14 November 2014 - [Reasons for scheduling delegate's interim decision and invitation for further comment for the ACCS, November 2014 \(Chemicals\)](#) - Interim decisions & reasons for decisions by delegate of the Secretary to the Department of Health and invitation to provide further comments. Closing date: 28 November 2014

14 November 2014 - [Miracle Mineral Solution \(MMS\)](#) - Safety advisory. The TGA is aware of media reports relating to the safety of MMS

13 November 2014 - [Consultation: Invitation for public comment - ACMS meeting, March 2015](#) - The Invitation for public comment - Public Consultation on the Proposed Amendments to the Poisons Standard (Medicines), November 2014 is now available. Closing date: 11 December 2014

13 November 2014 - [Documents released under Section 11C of the Freedom of Information Act 1982](#) - Added FOI 302-1314 documents

12 November - [MiniMed Silhouette and MiniMed Sure-T infusion sets](#) - Safety advisory - potential for tubing disconnection

12 November 2014 - [Updates to the list of designated orphan drugs](#) - Added Albutrepenonacog Alfa and Eltrombopag (Revolade)

11 November 2014 - [Consultations on adoption of European Union guidelines in Australia: Outcome of previous consultation](#) - Following consultation within the TGA and with relevant external stakeholders including Industry and Consumer groups, ending 6 November 2014, the following EU/ICH guidelines have been adopted by the TGA

Australian Institute of Health & Welfare

13 November 2014 - [Mental health services—in brief 2014 media release](#)

12 November 2014 - [Hospitalised injury in children and young people: 2011-12, media release](#)

Australian Commission on Safety and Quality in Health Care

10 November 2014 – On the Radar – issue 199 ([PDF 142KB](#)) ([Word 133KB](#))

Australia. Private Health Insurance Administration Council

10 November 2014 - [Change of Registration Status – Transport Health Pty Ltd](#) - Transport Health Pty Ltd (Transport) has changed its registration status from a restricted access private health insurer to an open private health insurer.

Australian Capital Territory. Health Directorate

12 November 2014 - [Personal vaporisers e-cigarettes consultation](#)

New South Wales. Ministry of Health

Media Releases

12 November 2014 - [Positive patient experiences in NSW hospitals](#)

Policy Directives & Guidelines

13 November 2014 - [Emergency Department Short Stay Units](#) PD2014_040

12 November 2014 - [Nurses and Midwives - Permanent Part-time - Overtime provisions for on call roster](#) PD2014_039

12 November 2014 - [Nurses and Midwives - Payment of the "in charge of a ward or unit" Allowance](#) PD2014_038

12 November 2014 - [Enrolled Nurse - Special Grade](#) PD2014_037

Information Bulletins

13 November 2014 - [Fee for Cremation Certificates Issued by Salaried Medical Practitioners of Public Hospitals](#) IB2014_069

13 November 2014 - [National Policy - Access to Government Funded Immunoglobulin Products in Australia](#) IB2014_068

10 November 2014 - [Christmas Closedown 2014/2015](#) IB2014_067

Queensland. Department of Health

14 November 2014 - [Queensland medical breakthrough](#) - Queensland researchers have made an international breakthrough that could drastically improve the treatment of leukaemia patients – the latest in a long list of world class health and medical innovations in the State.

12 November 2014 - [Emergency research foundation saves Queensland lives](#) - Researchers improving emergency responses to crises such as heart attacks and deadly jellyfish stings and with new procedures for pain management have been recognised at a ceremony in Brisbane today.

7 November 2014 - [Logan Hospital opens new multi-million dollar building](#) - Logan Hospital's new \$145.24 million building is delivering increased capacity and expanded world class health services to families, in one of Queensland's fastest growing regions.

Victoria. Department of Health

The Victorian Government is in caretaker mode - no new articles

Western Australia. Department of Health

Media Releases

[Get the bigger picture in health](#) - Between 2008 and 2018, more than \$7 billion is being invested in building new hospitals and improving existing health facilities across Western Australia.

Operational Directives (OD)

12 November 2014 - [OD 0574/14](#) - Release of Information under the *Freedom of Information Act 1992* (FOI Act) 2014 - Policy and Guidelines Health Agencies are responsible for ensuring that access to documents held by WA Health is determined in a timely, efficient and consistent manner in accordance with the FOI Act, and that accurate recording and reporting is maintained.

12 November 2014 - [IC 0207/14](#) - District Allowance Rate Adjustments for 2014 Advice of District Allowance rate adjustments for 2014.

12 November 2014 - [IC 0206/14](#) WA Health – United Voice – Enrolled Nurses, Assistants in Nursing, Aboriginal and Ethnic Health Workers Industrial Agreement 2014 Registration of an industrial agreement for Enrolled Nurses, Assistants in Nursing and Aboriginal and Ethnic Health Workers

New Zealand. Ministry of Health

14 November 2014 - [Evaluation of the New Graduate Nurse employment scheme through the Very Low Cost Access initiative](#)

11 November 2014 - [Approved Information Sharing Agreement \(AISA\) Consultation goes live](#)

11 November 2014 - [Health Workforce reports released](#)

United Kingdom. Department of Health

13 November 2014 - [Innovation and efficiency](#) - DH and NIB Speech

13 November 2014 - [Chief Medical Officer Sally Davies talks about the low risk of Ebola in the UK](#) - DH and PHE News story

13 November 2014 - [National Data Guardian appointed to safeguard patients' healthcare information](#) - DH and NIB News story

13 November 2014 - [Major new report on digital technology](#) - DH and NIB News story

11 November 2014 - [The end of open tobacco displays: 5 months to go](#) - DH News story

11 November 2014 - [Response to The People's NHS campaign about TTIP](#) - DH Government response

7 November 2014 - [Autism statutory guidance consultation launched](#) - DH News story

Australian Medical Association (AMA)

13 November 2014 - [AMA Speech - AMA President A/Prof Brian Owler - H20 Health Summit](#) - Speech to the H20 Health Summit "Healthy People, Successful Economy", Windsor Hotel, Melbourne [Read More](#)

12 November 2014 - [AMA Speech - AMA President A/Prof Brian Owler - AFR Higher Education Forum](#) - Speech to AFR Higher Education Forum, Melbourne, 12 November 2014, AMA President A/Prof Brian Owler [Read more](#)

12 November 2014 - [AMA Speech - AMA President A/Prof Brian Owler - Private Healthcare Australia](#) - Speech to Private Healthcare Australia Directors Day, Wednesday, 12 November 2014, Hotel Realm Canberra [Read more](#)

11 November 2014 - [New reports support AMA calls for greater investment in general practice](#) - AMA President, A/Prof Brian Owler, said today that the AMA welcomes the latest Bettering the Evaluation and Care of Health (BEACH) reports, which support AMA calls for greater Government investment [Read more](#)

British Medical Association

12 November 2014 - [OOH care needs overhaul to work, says BMA](#) - Urgent care services need to be properly integrated so patients understand where to turn for help out of hours, the BMA has said.

12 November 2014 - [Health service faces alarming financial outlook, say economists](#) - Health economists have warned MPs of the alarming financial outlook across many NHS trusts over the next 12 months.

11 November 2014 - [Bill aims to remove "worst elements" of NHS reform](#) - The BMA has given qualified support to the publication of a bill seeking to hand back ultimate responsibility for the NHS to the government and tackle privatisation fears.

Canadian Medical Association (CMA)

10 November 2014 - [CMA adopts new policy on referrals](#). A [new policy statement](#) on streamlining the referral/consultation process between primary and special care has been adopted by the CMA.

American Medical Association (AmMA)

10 November 2014 - [New American Medical Association Policy Works to Protect Patient Choice and Access to Care](#) - New policy addresses issue of inadequate insurance networks and promotes patient financial protections.

10 November 2014 - [New AmMA Policy Continues Call for Penalties to be Removed from the Meaningful Use Program](#) - Federal IT changes needed to improve care for patients and eliminate physician burdens.

10 November 2014 - [AmMA Promotes Strengthening Confidentiality for Patients Insured as Dependents](#) - Health insurance companies should strengthen their privacy policies to prevent the potential disclosure of sensitive medical information outside of the confidential patient-physician relationship, according to new policy adopted by the nation's physicians at the American Medical Association's Interim Meeting.

10 November 2014 - [AmMA Supports Further Regulation of Electronic Cigarettes to Protect Youth](#) - New AmMA policy calls for establishing a minimum legal purchase age for e-cigarettes of 18.

ABOUT US

Mark Williams



Mark is a partner in the Litigation and Regulatory team at DLA Piper.

Mark's focus is on public liability and professional indemnity insurance and associated litigation. He has particular experience with medical negligence claims and the complex insurance and indemnity arrangements prevalent in the resources, mining, building and construction industries.

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