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JUDGMENTS

Commonwealth

1213455 [2013] MRTA 2262 17 September 2013 [Published 27 September 2013] Application for review of a decision made by a delegate of the Minister for Immigration on 14 August 2012 to refuse to grant the applicant a Skilled (Provisional) (Class VC) visa under s.65 of the *Migration Act 1958* (Cth) - registered nurse.

New South Wales

X v The Sydney Children's Hospitals Network [2013] NSWCA 320 27 September 2013

X suffers from Hodgkin's disease. He undertook chemotherapy but it caused severe anaemia and he required a blood transfusion. X and his parents, as Jehovah's Witnesses, refused to consent to the treatment. The respondent hospital sought and was granted authority to impose the treatment, believing it to be "necessary to prevent serious damage to the applicant's health". X sought leave to appeal Gzell J's decision.

The challenging feature of this case was that X was considered a "mature minor". He had nearly reached adulthood and had provided the court with clear reasoning as to why he would continue to refuse to consent.

The Court of Appeal (CoA) invoked *parens patriae*, an essentially protective and inherent jurisdiction. X argued that this jurisdiction operated only when there was incompetence and, as Gzell J had already accepted X was competent, it did not apply. The CoA did not agree, determining that principle as well as authority was against any limiting of the jurisdiction. As *parens patriae* extends beyond the powers of a natural parent, the court has power under this inherent jurisdiction to override the refusal of a competent minor.

The CoA resolved that, while religious belief should not be discounted, its ultimate determination must be based on what is best for the welfare of the person within its jurisdiction. It acknowledged that it was balancing potentially conflicting fundamental principles of "dignity of the individual" and the "sanctity of life" in doing so. It granted leave but dismissed the appeal, permitting the treatment.

Patterson v Khalsa (No.3) [2013] NSWSC 1331 27 September 2013

This judgment concerned an assessment of the plaintiff's damages following a successful negligence claim, the defendant midwife having been found negligent in recommending a home birth and in the performance of her duties during the plaintiff's birth. The plaintiff suffered hypoxia and was left with quadriplegia, cerebral palsy, intellectual disability and epilepsy (not requiring medication).

Garling J assessed the damages in accordance with the *Civil Liabilities Act 2002* (NSW). For non-economic loss, an award can only be made if the severity of that loss "is at least 15% of a most extreme case". As the plaintiff's injuries and disabilities placed him in the most extreme case category, the maximum \$535,000 was awarded.

The plaintiff's life expectancy was calculated at a further 59 years. For future economic loss, it was accepted that his earning capacity was completely destroyed. The claim was for 40 years' employment and \$365,000, plus \$40,105 for superannuation, was allowed. The plaintiff would also require a full-time attendant carer, from six hours to 24 hours a day, once he reached adulthood, as he would not be able to live independently. A reasonable sum was \$4,247,311.

The plaintiff was awarded a total of \$5,187,416 in damages. \$1,419,177 was then allowed for the costs of managing an invested fund for these damages.

Although entitled to, the plaintiff did not claim past and future out-of-pocket expenses or the gratuitously provided attendant care of his parents, as the defendant was uninsured. His parents proposed to meet such expenses.

Wang v HCCC [2013] NSWNMT 18 24 September 2013 Health Practitioner - Nurse and Midwife - application to review order of de-registration.

South Australia

Bradley v Medical Board of Australia [2013] SAHPT 5 20 September 2013 [Published 2 October 2013]
Preliminary Point: Medical Profession - Appeal against decision of respondent refusing registration - Appellant's registration cancelled and he was disqualified from being re-registered until the fulfilment of certain conditions by order of the Medical Professional Conduct Tribunal on 23 March 2007- Appellant did not comply with those conditions but reapplied for registration to the Medical Board of Australia - Application refused on grounds of existing disqualification and failure to comply with conditions - Appellant appealed that decision of respondent to SAHPT.

LEGISLATION

Commonwealth

26 September 2013 **Private Health Insurance (Benefit Requirements) Amendment Rules 2013 (No. 5)** F2013L01753 • as made

Queensland

27 September 2013 **Parliamentary Report** Public Health (Exclusion of Unvaccinated Children from Child Care) Amendment Bill 2013

Tasmania

26 September 2013 **Ambulance Service Amendment Bill 2013** 51 of 2013

REPORTS

Australia. Department of Health and Ageing

Private Health Insurance Circulars

- 26 September 2013 - **PHI 58/13 Correction to the Private Health Insurance Circular 57/13 – Nursing Home Type Patient Contribution Rates**
- 2 September 2013 - **PHI 62/13 New Hospital Information**
- 2 September 2013 - **PHI 61/13 Closure (Revoke) of Public Hospital Information**
- 1 September 2013 - **PHI 60/13 Changes to Second-Tier Eligible Hospitals**
- 1 September 2013 - **PHI 59/13 Amendment to the Private Health Insurance (Benefit Requirements) Rules 2011**

Australia. Health Practitioner Regulation Agency (AHPRA) and the Boards

4 October 2013 - The ACT, NSW, QLD and SA AHPRA offices will be closed on Monday 7 October 2013 for Labour Day. [Read More](#)

3 October 2013 - The Medical Radiation Practice Board of Australia has released an update on supervised practice arrangements for 2014. [Read More](#)

3 October 2013 - Media release - New consultation on international criminal history checks. [Read More](#)

3 October 2013 - The Pharmacy Board of Australia releases its latest communique. [Read More](#)

2 October 2013 - The Podiatry Board of Australia releases its latest communique. [Read More](#)

2 October 2013 - The Board has released an interim guideline for 4+2 internship programs. [Read More](#)

2 October 2013 - The National Specialist IMG Committee releases its latest communique. [Read More](#)

2 October 2013 - Media release - New registration type now available: Limited registration for teaching or research. [Read More](#)

1 October 2013 - The Osteopathy Board releases its latest communique. [Read More](#)

30 September 2013 - The Dental Board of Australia releases its latest communique. [Read More](#)

27 September 2013 - The ATSI Health Practice Board of Australia releases its latest communique. [Read More](#)

26 September 2013 - Media release - Online renewal is now open for 12 regulated health professions. [Read More](#)

Australia. National Health and Medical Research Council (NHMRC)

27 September 2013 - [Guide to Peer Review](#) - Version 1.4..

26 September 2013 - [Complementary and alternative medicines](#) - The Council of the National Health and Medical Research Council has been concerned with reports of non-evidence based complementary and alternative medicine being used in place of evidence-based treatments for patients with serious but treatable conditions.

Australia. Therapeutic Goods Administration (TGA)

3 October 2013 - [Viper and Viper Plus powered wheelchairs](#) - Consumers and health professionals are advised that Ausmedic Australia is undertaking a recall for product correction for certain models of Viper and Viper Plus powered wheelchairs.

3 October 2013 - [ACMD meeting statement, Meeting 13, 20 September 2013](#) - Added the ACMD 13 meeting statement, 20 September 2013.

2 October 2013 - [Complementary medicines: Cancellations from the ARTG following compliance review](#) - Cancellation decision for Inner Health Candex confirmed.

1 October 2013 - [Frequently asked questions about the new OTC business process \(commenced April 2013\)](#) - Frequently asked questions and answers on the new OTC BPR process which commenced on 15 April 2013 and will be implemented in stages over 12 months, with full implementation in April 2014.

1 October 2013 - [Standard SlingBar 450 - supplied with Liko overhead and mobile lifts](#) - Consumers and health professionals are advised that Hill-Rom is undertaking a recall for product correction for the Liko Standard SlingBar 450.

1 October 2013 - [Orthopaedic implant revision rate data](#) - The TGA assesses the data published in each year's report of the Australian Orthopaedic Association's National Joint Replacement Registry.

1 October 2013 - [Medicines Safety Update, Volume 4, Number 5, October 2013](#) - October 2013 edition of the Medicines Safety Update.

Australian Institute of Health and Welfare

4 October 2013 - [Australian hospital statistics 2012-13: elective surgery waiting times media release](#)

3 October 2013 - [Cancer in Aboriginal and Torres Strait Islander peoples of Australia: an overview | media release](#)

1 October 2013 - [Aboriginal and Torres Strait Islander health services report 2011-12: Online Services Report - key results](#)

Australian Commission on Safety and Quality in Health Care

[On the Radar – 30 September 2013 – Issue 146 \(95KB\)](#)

Australia. Private Health Insurance Administration Council

1 September 2013 - [131001 Circular 1324 Cap Ad interest rate September 2013](#)

Australia. National Mental Health Commission

27 September 2013 - [Expert Reference Group - National Mental Health Commission](#) - Expert Reference Group. National Targets and Indicators for mental health reform: Report to COAG Working Group on Mental Health Reform.

New South Wales. Ministry of Health

Media Releases

- 27 September 2013 - [Health Directorate - Annual Report 2012-13 - ACT Health](#)

Policy Directives and Guidelines

- 2 October 2013 - [BCG \(Bacille Calmette Guerin\) Vaccination](#) PD2013_032

Information Bulletins

- 1 October 2013 - [Pension Based Scale of Fees - Health Services Act 1997](#) IB2013_038
- 30 September 2013 - [Lead Apron Allowance](#) IB2013_036
- 30 September 2013 - [Dispensing of Medicines Requiring Child-Resistant Packaging](#) IB2013_037

Northern Territory. Department of Health

30 September 2013 - [Robyn Lambley - Territorians mark world heart day](#) - Minister for Health Robyn Lambley said World Heart Day is a time to raise awareness about cardiovascular disease prevention, and reflect on the work that the Country Liberals Government is doing to improve cardiac health in the Territory.

30 September 2013 - [Robyn Lambley - Trauma Centre and Sanglah team up on toxicology](#) - Darwin's National Critical Care and Trauma Response Centre will deliver toxicology workshops at Bali's Sanglah Hospital, as well as provide support for the Asia Pacific Economic Cooperation Summit this week.

Queensland. Department of Health

2 October 2013 - [Gold Coast Health Board delivers a bonus for local health care](#) - Minister for Health The Honourable Lawrence Springborg has praised the financial performance of the Gold Coast Hospital and Health Service Board, which will redirect a budget surplus to boost activity in the first year of its new university hospital.

1 October 2013 - [New era for Queensland Ambulance Service](#) - Queenslanders will have better emergency health services following today's structural alignment of the Queensland Ambulance Service with Queensland Health.

30 September 2013 - [Hearing tests for thousands of newborns](#) - More than 62,000 newborn babies in Queensland were screened for hearing loss in 2012-13.

30 September 2013 - [Rural and remote nurses to improve patient care](#) - Queensland Health is investing in improving the knowledge and skills of nurses in rural and remote areas, with a funding boost and more staff training.

27 September 2013 - [Minister commends successful Gold Coast University Hospital move](#) - The very last patients have arrived at the new Gold Coast University Hospital as staff complete the monumental task of moving an entire hospital. Health Minister Lawrence Springborg commended all involved in the history-making move, which resulted in 219 patients safely and efficiently.

Tasmania. Department of Health and Human Services

4 October 2013 - [Breastscreen Wins Excellence Award](#)

4 October 2013 - [Intensive Care Revamp](#)

1 October 2013 - [Major Drop in Housing Waiting List](#)

1 October 2013 - [DHHS Progress Chart](#)

1 October 2013 - [Child and Family Centre Chigwell Wins International Award](#)

30 September 2013 - [Be Breast Aware - Know What Looks and Feels Normal for You](#)

Victoria. Department of Health

4 October 2013 - [Victoria's hospitals perform well with elective surgery](#) - Victoria's prompt and efficient treatment of elective surgery patients has been confirmed in a national report, Health Minister David Davis said today.

Western Australia. Department of Health

Media Releases

- 4 October 2013 - [WA's elective surgery wait times among best in Australia](#)
- 1 October 2013 - [Health grants for Wheatbelt and Great Southern](#)
- 30 September 2013 - [New name and more beds for new children's hospital](#)

New Zealand. Ministry of Health

4 October 2013 - [Mortality and Demographic Data 2010](#)

1 October 2013 - [National Cancer Programme: Work Plan 2013/14](#)

United Kingdom. Department of Health

1 October 2013 - [Government strengthens health regulator's independence](#)

1 October 2013 - [Friends and Family Test extended across public services](#)

1 October 2013 - [Seven day, 8am – 8pm, GP access for hard working people](#)

30 September 2013 - [G8 dementia summit: have your say on improving dementia research](#)

28 September 2013 - [Thousands of patients to benefit from £400 million cancer package](#)

United States of America. Department of Health and Human Services

1 October 2013 - [Health Insurance Marketplace Opens, Offers Millions of Americans Quality, Affordable Health Care Coverage](#)

30 September 2013 - [More than 900 Champions for Coverage Help Americans understand the Health Insurance Marketplace](#)

30 September 2013 - [Breast Cancer Awareness Month: A statement by HHS Secretary Kathleen Sebelius](#)

27 September 2013 - [HHS pursues new innovative treatments for severe burns](#)

Australian Medical Association

3 October 2013 - [Health professionals must look after their own health too](#)

3 October 2013 - [AMA concerns with chiropractors treating children](#)

2 October 2013 - [Grattan Institute report offers poorer quality health care to rural Australians](#)

British Medical Association

3 October 2013 - [Patient care faces disaster, warns royal college](#) - The BMA has called for more resources and funding for general practice, after royal college warnings.

3 October 2013 - [Medical schools must wait for money](#) - Medical students asked for fees by university finance departments have been reassured that their NHS bursary awards might not be confirmed in writing yet.

3 October 2013 - [BMA defends publicly funded NHS](#) - The BMA in Scotland has robustly defended a publicly funded and delivered NHS.

3 October 2013 - [Cost of smoking outweighs tax revenue, says report](#) - Smoking costs the Welsh economy almost £800 million a year, according to a report by charity ASH Wales.

2 October 2013 - **GPs pilot early diagnosis cancer tool** - 21 GP practices are testing technology designed to help diagnose cancer earlier.

2 October 2013 - **BMA calls for better record of responsible doctors** - The BMA is asking for NHS guidance to help hospitals in England correctly record the senior doctors responsible for patients' care.

1 October 2013 - **Call for effective management of diabetes care** - Doctors leaders have said the work of primary care in managing diabetes in Wales needs to be properly resourced for the future.

1 October 2013 - **Extended hours pilot must tackle GP shortage** - GPs have said a government pilot on extending practice opening hours needs to address issues.

27 September 2013 - **BMA insists on pay rise in line with inflation for all doctors** - The BMA has criticised attempts to limit doctors' earnings and is calling for at least an inflation-level pay increase to recognise their vital role in the NHS.

Canadian Medical Association

30 September 2013 - **CMPA takes aim at disruptive behaviour by MDs**

American Medical Association

2 October 2013 - **Survival After Out-of-Hospital Cardiac Arrest** - To examine temporal changes in bystander resuscitation attempts and survival during a 10-year period in which several national initiatives were taken to increase rates of bystander resuscitation and improve advanced care, Wissenberg and coauthors assessed Danish Cardiac Arrest Registry records from 19,468 patients with out-of-hospital cardiac arrest.

1 October 2013 - **On the Road with AMA President, Ardis Dee Hoven, MD** - Dr. Hoven writes about what is at the heart of improving the health of the nation.

1 October 2013 - **Does Med Ed Need Radical Surgery, and What Kind?** Wall St Journal - Letter to the editor from Dr. Hoven says the AMA's initiative to accelerate change in medical education will establish a learning consortium.

28 September 2013 - **Congress: Fix Medicare now** Milwaukee Journal Sentinel - Column from Dr. Hoven and the president of the Wisconsin Medical Society speaking out on unsustainable Medicare cuts.

ABOUT US

Anthony Willis



Although maintaining a government focus, Anthony also advises corporate clients particularly in the technology and research and development sectors. He advised the government on proposed changes to Australian patent legislation concerning pharmaceuticals in the context of the US Australia Free Trade Agreement.

He has also advised on the patenting of genetic technology in the context of the BRCA genes.

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