



HEALTH ALERT

21 November 2016

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JUDGMENTS

Commonwealth. Fair Work Commission

16 November 2016 - [Yasemin Tounjel v Health Communication Network T/A Medical Director \[2016\] FWC 8233](#) - Application for relief from unfair dismissal.

Queensland

16 November 2016 - [Erathnage v Medical Board of Australia \[2016\] QCAT 418](#) - On 21 September 2016, the Medical Board of Australia (**the Board**) formed a belief that the way in which Dr Erathnage had practiced the profession 'is or may be unsatisfactory'. As a result, the board imposed conditions on Dr Erathnage's registration which included, among other things, that he was to practice under a physically present supervisor. On 20 October 2016, Dr Erathnage filed an application seeking a review of the Board's decision, as well as an application for a stay of the Board's decision. The Tribunal in this proceeding dealt with the latter of those applications.

The Tribunal heard that since the imposition of the conditions, Dr Erathnage had not worked as his employer was unable to provide him with a supervisor. Dr Erathnage's application provided that, if a stay was not granted, his patients would continue to be deprived of his services. He also stated that his income, livelihood and reputation would be affected. The Board did not oppose the application.

The Tribunal relied heavily on the impact that the Board's decision would have on the community serviced by Dr Erathnage. It acknowledged that the hospital where Dr Erathnage practiced was in a rural location, and operating with fewer doctors than it required. The Tribunal also considered the evidence of a number of references which spoke in 'glowing terms of the work undertaken by Dr Erathnage'.

The Tribunal granted the stay of the imposition of conditions until the hearing and determination of the substantive review application.

17 November 2016 - [Inquest into the death of Ross Matthew Alcock](#) - Mr Alcock was an inpatient in a mental health ward of the Royal Adelaide Hospital (**the Hospital**). On 22 February 2014, he was found hanging from an electrical cord tied inside his wardrobe. Mr Alcock was transferred to the Intensive Care Unit but died the following day.

Prior to his admission to the Hospital, Mr Alcock had contact with mental health services for chronic anxiety in the context of an acute psychotic episode due to heavy cannabis use. He had also become very isolated and fixated with conspiracy theories. On the day of his admission, his behaviour became increasingly irrational. The inquest heard that he thought 'the Masons were trying to get him'. Later that day, Mr Alcock asked to go the Hospital. This resulted in him being assessed and detained in the mental health ward.

During his admission, Mr Alcock was the subject of half-hourly observations. Consultant psychiatrist, Dr Symon, led evidence that this was appropriate given that Mr Alcock had been accepting of being at the hospital, showed no signs of agitation and seemed to be fairly settled. The Coroner stated there 'there is a balance to be drawn between benignly observing a patient in a manner that is not too intrusive, and ensuring their safety'. On this occasion, the Coroner agreed that the observations were appropriate. However, it was found that Mr Alcock's death could have been prevented if he had not had such ready access to a ligature and ligature point.

New South Wales

16 November 2016 - [Page v Healthscope Operations Pty Ltd \[2016\] NSWSC 1608](#) - PRACTICE AND PROCEDURE – motion seeking the determination of separate questions – r 28.2 of the Uniform Civil Procedure Rules 2005 (NSW) – separate determination agreed by parties.

LEGISLATION

As a general rule, this bulletin tracks subsidiary legislation at Commonwealth, but not at state level

Commonwealth

11 November 2016 - [Work Health and Safety Amendment Regulation 2016 \(No. 2\)](#) - F2016L01736 as made.

10 November 2016 - [National Disability Insurance Scheme \(Protection and Disclosure of Information\) Amendment Rules 2016](#) - F2016L01733 as made.

South Australia

17 November 2016 - [Health Care \(Miscellaneous\) Amendment Act 2016](#) - Remainder of the Act will come into operation on 1 December 2016 as of Gazette notice.

REPORTS

Australia. Department of Health

Media releases

14 November 2016 - [ANTIBIOTIC AWARENESS WEEK: how we can all help fight antibiotic resistance](#) - Antibiotic Awareness Week is a global health initiative to alert everyone to the serious health threat posed by antibiotic resistance.

14 November 2016 - [Men's Sheds Support Men's Health Across Australia](#) - The Australian Government is investing in the promotion and support of men's health and wellbeing through the announcement of funding towards nearly 100 Men's Sheds across the country.

13 November 2016 - [Community Pharmacies to Help Detect Diabetes](#) - Community pharmacies will play a larger role in the early detection of type 2 diabetes.

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

18 November 2016 - [Aboriginal and Torres Strait Islander health practice is the fastest growing registered health profession in Australia](#) - The Aboriginal and Torres Strait Islander health workforce grew by more than 50% over the past year, making it the fastest growing profession of all the regulated health professions, according to data released today in the 2015/16 annual report published by AHPRA.

18 November 2016 - [Communiqué](#) - The Dental Board of Australia releases its latest communiqué.

16 November 2016 - [Statement from Medical Board of Australia and AHPRA](#) - Regulating health practitioners is an essential safeguard to protect patients.

15 November 2016 - [Medical practitioner suspended after falsifying patient records](#) - A tribunal has confirmed a decision by the Medical Board of Australia to suspend the registration of Dr Wijeneka Liyanage.

17 November 2016 - [Communiqué](#) - The Chinese Medicine Board of Australia releases its latest communiqué.

17 November 2016 - [Communiqué](#) - The Physiotherapy Board of Australia releases its latest communiqué.

17 November 2016 - [Tasmania office closure and new location](#) - AHPRA's Tasmanian office will be closed to the public on Friday 18 November 2016 and will reopen on Monday 21 November 2016 at a new location. The office will continue to be located in Hobart.

16 November 2016 - [Chiropractic Board of Australia and AHPRA publish health profession agreement](#) for 2016-20.

16 November 2016 - [Statement from Medical Board of Australia and AHPRA](#) - Regulating health practitioners is an essential safeguard to protect patients.

16 November 2016 - [Misuse of protected title 'occupational therapist' successfully prosecuted](#) - AHPRA has successfully prosecuted an unregistered practitioner for the misuse of the protected title 'occupational therapist'.

Australia. National Blood Authority (NBA)

2 November 2016 - [2015-16 NBA Annual Report](#) is now available online.

28 October 2016 - [Potential Data Breach - Red Cross Blood Service](#) - The Australian Red Cross Blood Service has issued a statement and made comments today regarding the unauthorised access by a third party to information held electronically by the Blood Service.

Australia. National Health & Medical Research Council (NHMRC)

11 November 2016 - [NHMRC Research Tracker](#)

Australia. Pharmaceutical Benefits Scheme

11 November 2016 - [Additional PBAC Public Summary Documents - July 2016 meeting - Additional Public Summary Documents](#) from the July 2016 Pharmaceutical Benefits Advisory Committee (**PBAC**) meeting are now available.

Australia. Therapeutic Goods Administration (TGA)

14 November 2016 - [Further public submissions on scheduling matters referred to the ACMS#17, March 2016](#) - Further public submissions in response to the delegate's proposed amendments to the Poisons Standard referred to the ACMS#17 now available

14 November 2016 - [TGA presentation: ASMI Annual Conference, 27 October 2016](#) - An update on TGA performance statistics, medicine labelling changes and the Review of Medicines and Medical Devices Regulation.

14 November 2016 - [Medical devices and IVDs: Cancellations from the ARTG](#) - Silimed Industria de Implantes LTDA devices cancelled from the ARTG.

10 November 2016 - [Fees and charges: summary - from 1 July 2016](#) - Minor amendment to description of fees in items 2AA and 3AA and new table for registered OTC medicines - requests with single fee.

10 November 2016 - [Prescription medicines: new or extended uses, or new combinations of registered medicines](#) - Added Onglyza (saxagliptin (as hydrochloride)).

10 November 2016 - [MRA GMP clearance application processing timelines](#) - Updates to MRA clearance application processing timelines.

9 November 2016 - [Medicines and vaccines post-market vigilance - statistics for 2015](#) - An overview of post-market monitoring of medicines and vaccines in 2015.

9 November 2016 - [Medical devices post-market vigilance - statistics for 2015](#) - An overview of post-market monitoring of medical devices in 2015.

Australian Digital Health Agency

14 November 2016 - [National consultation gains momentum](#) - The Australian Digital Health Agency's national consultation on digital health is continuing with a number of events taking place this week. Forums for both clinicians/healthcare providers and consumers are being held in Adelaide, Brisbane, and Emerald (Queensland). To see details and to register, visit [Your health. Your say.](#)

11 November 2016 - [New blog post by Rachel de Sain: Why I'm behind digital health](#) - 'Can you give me a call when you're free, love mum.' The message flashed up on my phone and my heart dropped. I knew something was up. My mum's attempts at 'text speak' usually end up with half a screen of rambled shortcuts that I need to look up urban dictionary to decipher. This, on the other hand, was too short for comfort.

Australian Commission on Safety and Quality in Health Care

9 November 2016 - [Antibiotic Awareness Week 2016: tackling a global health problem](#) - The urgent need to tackle growing antibiotic resistance is the focus of an awareness campaign backed by the Australian Commission on Safety and Quality in Health Care in partnership with other leading health and livestock organisations and agencies.

On the Radar – 14 November 2016 – Issue 299 ([PDF 296KB](#)) ([Word 1014KB](#))

Australian Competition and Consumer Commission (ACCC)

14 November 2016 - **IVF 'success rate' claims under the microscope** - Several major IVF clinics have made changes to claims published on their websites about success rates following an Australian Competition and Consumer investigation into potentially false or misleading representations. 'The ACCC reviewed website content from all major Australian IVF clinics and found that some made success-rate comparisons without adequate disclosure about, or qualification of, the nature of the data or graphics used to make the claim,' ACCC Commissioner Sarah Court said. 'In addition, some IVF clinics used technical terms understood by industry participants but which may be misleading to consumers without further clarification or explanation'

Australia. National Mental Health Commission

16 November 2016 - **22 November deadline: ADF review** - Tuesday 22 November is the deadline to take a survey or make a submission to the National Mental Health Commission **review** of self-harm and suicide prevention services available to current and former Australian Defence Force members.

15 November 2016 - **Working together** - CEO Peggy Brown invited delegates at the Australian Rural and Remote Mental Health Symposium to partner with the National Mental Health Commission to 'continue to advocate for improvements in service delivery, and for the other supports necessary to enable people living with mental illness to lead contributing lives, in socially and economically thriving communities.' After noting that mental illness occurs at higher rates in regional and remote areas, Dr Brown said she planned ongoing dialogue with local practitioners, carers and consumers to build upon the recommendations of the Commission's landmark **2014 report**.

11 November 2016 - **Solutions that work: addressing Aboriginal and Torres Strait Islander suicide rates** -The National Mental Health Commission today congratulated the Aboriginal and Torres Strait Islander Suicide Prevention Evaluation Project on the release of their report into indigenous suicide rates. 'Solutions that work: what the evidence and our people tell us is a milestone in Aboriginal and Torres Strait Islander health and wellbeing,' said Commission CEO Dr Peggy Brown. 'The report's 17 recommendations to government, including that local Aboriginal Community Controlled Health Services remain preferred mental health service providers, are key to addressing the unacceptable rate of suicide in Indigenous communities.'

Australian Capital Territory. Health Directorate

9 November 2016 - **Release of 2015-16 Quarterly Performance Reports**

New South Wales (NSW). Ministry of Health

Media Releases

17 November 2016 - **NSW tops nation in timely emergency care** - Health Minister Jillian Skinner today welcomed a report showing NSW leads the nation in timely emergency department care. The Australian Institute of Health and Welfare Emergency department care 2015-16: Australian hospital statistics report shows 81 per cent of NSW emergency department patients were seen on time - that is, clinical care was commenced - within the time specified in five nationally-accepted triage categories: resuscitation (immediate), emergency (10 minutes), urgent (30 minutes), semi-urgent (60 minutes), non-urgent (120 minutes).

15 November 2016 - **Honouring those who give the gift of life** - Health Minister Jillian Skinner has urged the people of NSW to offer a simple expression of thanks to organ and tissue donors and families who give the gift of life. This Sunday (20 November) is national DonateLife Thank You Day, when Australians honour living and deceased organ and tissue donors and their families by creating and sharing a message on social media as part of the #ThankYouDay campaign.

Policy Directives & Guidelines

17 November 2016 - **Neonatal - Jaundice Identification and Management in Neonates ≥ 32 Weeks Gestation**

17 November 2016 - **Visiting Practitioner Appointments in the NSW Public Health System**

Information Bulletins

14 November 2016 - [Indicator Procedure Code and Religion Classification Codeset Updates - Effective 1 January 2017](#)

Northern Territory (NT). Department of Health

15 November 2016 - [Friends of TEHS to help shape health services in Top](#) - End A new project that gives the community more opportunity to provide feedback and ideas on health service delivery in the Top End will be launched this week. Friends of TEHS is the Top End Health Service's (TEHS) new consumer engagement project. Top End Health Service Chief Operating Officer Michael Kalimnios said Friends of TEHS would enable members of the community to have a say in how services are delivered and that they meet the community's needs.

15 November 2016 - [Drinking water advice - Katherine rural area](#) - The NT Department of Health and key agencies are working in partnership with the Department of Defence to determine the impact of PFAS in the environment and drinking water supplies.

Queensland. Department of Health

18 November 2016 - [The greatest threat to the Cairns Hospital is the LNP](#) - Minister for Health and Ambulance Services Cameron Dick has condemned Opposition Leader Tim Nicholls' rank political opportunism.

18 November 2016 - [\\$23 million investment to improve Central Queensland maternity services](#) - The Palaszczuk Government is investing \$23 million over four years to improve the quality of Central Queensland maternity services.

16 November 2016 - [New Alpha hospital making history](#) - Queensland's first collocated hospital and emergency services precinct was officially opened in Alpha today.

16 November 2016 - [Queenslanders stepping up to the health challenge](#) - Queensland's health is improving with the 2016 Chief Health Officer Report showing gains in important areas.

16 November 2016 - [Auxiliary helps make hospital a happy place](#) - The Mount Isa Hospital Auxiliary celebrates a year of over \$30,000 in contributions to the Hospital, wrapping up the year's activities with a Christmas hamper raffle.

South Australia. Department for Health & Ageing

16 November 2016 - [Feds must add lifesaving Meningococcal B vaccine to PBS](#) - South Australian Health Minister Jack Snelling has called on the Federal Government to subsidise a vaccine that prevents the potentially deadly Meningococcal B strain.

16 November 2016 - [Meningococcal case November 2016](#) - A case of invasive meningococcal disease B strain has been notified in a 19 year old male from regional South Australia. He has been admitted to hospital in a critical condition. Despite this being the fourth case this week, all cases are unrelated and meningococcal disease is only spread by close or lengthy contact so there is no increased public health risk.

15 November 2016 - [Three meningococcal cases](#) - Three cases of invasive meningococcal disease have been notified in people across metropolitan Adelaide. An 18 year old male, a 29 year old male and a 71 year old woman have contracted the disease, all who are in hospital in a stable condition. The cases are unrelated to one another.

15 November 2016 - [Lyell McEwin doctor wins prestigious award](#) - The Lyell McEwin Hospital's Dr Gajen Perry has been named Junior Doctor of the Year 2016 for the Confederation of Postgraduate Medical Education Councils, ahead of representatives from each Australian state and territory and New Zealand.

10 November 2016 - [Update in SA Pathology Review](#) - The next round of staff consultation will begin today as SA Pathology moves towards achieving performance and efficiency initiatives announced last

year. A proposed service configuration and workforce model has been released for consultation with staff, outlining how public SA Pathology services will be provided in SA into the future.

Tasmania. Department of Health & Human Services

17 November 2016 - **60 per cent reduction in ramping under Hodgman Government** - Ambulance ramping hours at the Royal Hobart Hospital (RHH) are down by 60 per cent under the Hodgman Liberal Government.

17 November 2016 - **Paramedics and pubs join forces** - As we come into the festive season, the Hodgman Liberal Government is proud to support a new partnership between Ambulance Tasmania and the Tasmanian Hospitality Association (THA) to help encourage responsible behaviour in our public places and ensure that if paramedics are needed, they can do their job safely and effectively. As part of the recently launched 'Keep your hands off our ambos campaign,' THA members will display posters reminding patrons that paramedics are unable to save lives if they are too busy fighting for their own.

14 November 2016 - **Major progress made on RHH Redevelopment** - Major progress is being made on the RHH Redevelopment project which will deliver Tasmanians the state-of-the-art hospital they deserve. The new two storey J-Block (formerly referred to as the temporary in-patient facility) will be ready to accommodate patients from next week.

11 November 2016 - **25-years of dedication to the THS recognised** - Today is an opportunity to pay tribute to the hardworking, long serving, Tasmanian Health Service staff who are reaching a milestone in their working life. Among the recipients of these 25-year awards for service are doctors, nurses, food service assistants, quality and safety officers, administrators and allied health staff.

11 November 2016 - **Launceston leading nation with new network** - In an Australian first, Launceston is set to become the first city to be covered by an Internet of Things network.

Victoria. Department of Health

18 November 2016 - **Birchip Hospital Revamp To Put Patients First** - The Andrews Labor Government will invest \$5 million to redevelop East Wimmera Health Service's ageing Birchip campus to ensure local patients receive the very best care.

18 November 2016 - **Australian First Melanoma Blood Test To Save Lives** - Victorians will be the first in Australia to access a revolutionary new blood test to diagnose melanoma sooner and give patients the best chance of survival.

17 November 2016 - **Victorian First Support For Women With Endometriosis** - More than 200,000 women across Victoria suffering from endometriosis can now access the support they need to get diagnosed sooner and better treat and manage their condition, thanks to the Andrews Labor Government.

16 November 2016 - **New breastscan clinic to put Wangaratta women first** - Women in Wangaratta and surrounding areas will now have better access to lifesaving breast cancer screening with the launch of a new BreastScreen Victoria fixed clinic.

16 November 2016 - **World class cancer care to put Albury-Wodonga patients first** - Cancer patients on the border now have the world class care and treatment they deserve, closer to home, with the opening of the new Albury Wodonga Regional Cancer Centre. Minister for Health Jill Hennessy today joined Federal Minister for Health Sussan Ley and Member for Northern Victoria Jaclyn Symes to officially open the \$65 million facility. The modern building integrates local public and private cancer services under one roof, in a high-quality, purpose-built facility that focuses on the needs of patients and delivers the very best care and treatment.

13 November 2016 - **\$10 million research boost to put cancer patients first** - The Andrews Labor Government will provide \$10 million to help Victorian Comprehensive Cancer Centre cancer researchers uncover new breakthroughs in the fight against cancer and save lives. Minister for Health Jill Hennessy today announced a Victorian Cancer Agency grant to support world leading cancer research and discoveries across the Victorian Comprehensive Cancer Centre alliance.

10 November 2016 - **Liberal-national lies about Ambulance Victoria exposed** - The Liberals and the Nationals have once again been caught out lying about our ambulance service, scaring local Morwell residents. At a time when Latrobe Valley residents are already doing it extremely tough, it is a disgrace that the Coalition would peddle lies about the Ambulance Victoria Regional Headquarters in Morwell.

14 November 2016 - **Work starts on world class Ballarat hospital cath lab** - Construction of the Andrews Labor Government's \$10 million new world class catheterisation laboratory for cardiac surgery at Ballarat Base hospital is now underway, creating 30 jobs.

13 November 2016 - **\$10 million research boost to put cancer patients first** - The Andrews Labor Government will provide \$10 million to help Victorian Comprehensive Cancer Centre cancer researchers uncover new breakthroughs in the fight against cancer and save lives.

Western Australia (WA). Department of Health

Media Releases

17 November 2016 - **Minister for Health and Minister for Regional Development: Telehealth eases travel pain for country patients** - Country patients say having specialist medical appointments via videoconferencing in their home towns is convenient and saves them considerable time and money.

17 November 2016 - **Minister for Health: WA benefits from half a century of fluoridation** - Millions of West Australians have benefited from better oral health, thanks to the passage in 1966 of legislation to begin fluoridation of drinking water.

16 November 2016 - **Confirmed mosquito-borne virus disease risk** - The Department of Health is reminding residents and travellers in the south-west region of Western Australia, which includes the Perth metropolitan area, to take precautions to avoid mosquito bites over the coming months.

16 November 2016 - **Free online STI test for school leavers** - WA Health is encouraging school leavers to play it safe during their end of school celebrations, and use a condom if they are having sex. And if they have had sex without condoms take a free online sexually transmitted infection test.

16 November 2016 - **Minister for Health: Tough new legislation to reduce tobacco harm** - Health Minister John Day today announced a suite of legislative changes set to reinforce Western Australia's tough stance on tobacco control.

16 November 2016 - **Minister for Health and Minister for State Development: New ambulance facilities to benefit Onslow** - A new \$2 million ambulance sub centre will be built in Onslow to replace the current facilities.

16 November 2016 - **Minister for Health, Minister for Regional Development and Minister for State Development: Onslow Health Service construction go-ahead** - Construction will start today on Onslow's new \$41.8 million health service, bringing long-term benefits to the local community.

15 November 2016 - **Minister for Health and Minister for Education: Story writing makes organ donation the winner** - Construction will start today on Onslow's new \$41.8 million health service, bringing long-term benefits to the local community.

14 November 2016 - **Study reveals high price of disease rarity** - The Department of Health-led research shows that people with a rare disease account for a disproportionate share of hospital costs and are admitted twice as often as the overall Western Australian population.

14 November 2016 **Minister for Health: 2,000th patient for life-changing RPH liver service** A pioneering nurse who has played a critical role in the evolution of the acclaimed Royal Perth Hospital's liver service has been named 2016 Australian Nurse Practitioner of the Year.

14 November 2016 - **Minister for Health: New Healthway grants mark World Diabetes Day** - Mirrabooka's award-winning Edmund Rice Centre is one of five Western Australian community groups to share in \$390,000 of Healthway funding, to promote better health through a wide range of community and sporting activities.

New Zealand. Ministry of Health

18 November 2016 - [The Office of the Director of Mental Health Annual Report 2015](#) - This is the eleventh Annual Report of the Office of the Director of Mental Health. It presents information and statistics that serve as indicators of quality for our mental health services.

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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