



HEALTH ALERT

29 January 2018

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KEY DECISIONS

12 January 2018 - *Health Services Union NSW v Hunter New England Local Health District [2018] NSWIRComm 1000* - Industrial dispute - higher grade duties claimed by two ward clerks - small claims applications made – award interpretation-relevant principles considered – award provision examined – no ambiguity found-applications and dispute proceedings dismissed.

The applicants, who were employed as ward clerks by the respondent, claim the respondent failed to pay them a higher grade duty allowance for undertaking relief work in a higher classification position. The applicants were classified as Administration Officer Level 2 under the Health Employees Administrative Staff (State) Award (**Award**), and the relief work undertaken was associated with Administration Officer Level 3. The applicants sought back payment for working higher grade duties for an average of one to two hours per day since 2008.

The respondent argued that the applicants did not meet the conditions for the allowance under the Award, as it requires the relief position to be undertaken continuously for five working days or more, and during that period all the duties and responsibilities of the higher classification position were performed. In response, the applicants claimed the Award was ambiguous as it was silent with respect to the payment of the allowance for part of a day.

The Commission dismissed the application and held in favour of the respondent. It concluded that the prerequisites to payment of the higher duties allowance are clear and unambiguous, and it is mandatory that the applicants satisfy the Award conditions. On their own admissions, the applicants did not perform the whole of the duties or exercise the whole of the responsibilities of those higher positions as set out in the relevant position description. Further, the applicants were not required to relieve continuously for five working days or more.

22 December 2017 - *Inquest into the death of Colin Parker* - CORONIAL LAW – cause and manner of death, syncope, atrial fibrillation, blunt force head injury, Liverpool Hospital, Campbelltown Hospital, inter-facility patient transfer, handover, reversal of anticoagulation, patient flow portal, consultant-to-consultant communication.

The coronial inquest into the death of Colin Parker focused on the care and treatment he received at Liverpool Hospital and Campbelltown Hospital. Mr Parker was referred to Campbelltown Hospital by his GP, after suffering a head injury. A CT scan revealed an acute left frontotemporal subdural haematoma and left frontal lobe parenchymal haematoma. In light of Mr Parker's complaints of a headache and feeling nauseous, and his history of irregular heartbeat and episodes of fainting, an urgent transfer request was made to the neurosurgical registrar at Liverpool Hospital.

The communication regarding the transfer was between junior medical personnel of the two hospitals, which resulted in a delay of the transfer due the failure to appreciate and communicate the urgency of the situation. Upon arrival at Liverpool Hospital Mr Parker had already suffered irreversible brain damage, and despite undergoing surgery, he later died.

The Coroner was critical of the delay in the transfer of Mr Parker which ultimately resulted in the delay of life-preserving surgery. He stated that the inexperience of junior medical personnel and the lack of consultant-to-consultant discussion regarding treatment prevented an expeditious transfer. Accordingly, the Coroner recommended amendments to the Inter-Facility Patient Transfer policy, in cases of time critical transfers, to ensure a senior medical officer is involved in the transfer process. The recommendations include a requirement that consultants provide direct supervision and support to junior medical staff involved in the transfer process, and mandatory consultant-to-consultant referral, where consultants are available.

JUDGMENTS

Commonwealth. Fair Work Commission

22 January 2018 - [Barraba and District Retirement Homes Association Incorporated T/A Richardson House \[2018\] FWCA 438](#) - Application for approval of The Richardson House, NSWNMA and HSU NSW Enterprise Agreement 2017-2020.

22 January 2018 - [Booroongen Djugun Limited T/A Booroongen Djugun Aged Care Facility \[2018\] FWCA 433](#) - Application for approval of the Booroongen Djugun Aged Facility, NSWNMA and HSU NSW Enterprise Agreement 2017 - 2020.

19 January 2018 - [Masonic Care Tasmania Incorporated \[2018\] FWCA 400](#) - Application for approval of the Masonic Care Tasmania (South) Nurses Agreement 2017.

18 January 2018 - [Sigma Company Limited T/A Sigma Healthcare \[2018\] FWCA 377](#) - Application for approval of the Sigma Customer Service Enterprise Agreement 2017.

New South Wales

22 December 2017 - [Inquest into the death of Colin Parker](#) - CORONIAL LAW – cause and manner of death, syncope, atrial fibrillation, blunt force head injury, Liverpool Hospital, Campbelltown Hospital, inter-facility patient transfer, handover, reversal of anticoagulation, patient flow portal, consultant-to-consultant communication.

12 January 2018 - [Health Services Union NSW v Hunter New England Local Health District \[2018\] NSWIRComm 1000](#) - Industrial dispute - higher grade duties claimed by two ward clerks - small claims applications made – award interpretation-relevant principles considered – award provision examined – no ambiguity found-applications and dispute proceedings dismissed.

Victoria

15 January 2018 - [Inquest Death of Emma Kate McGrath COR 2107 002066](#) .

23 January 2018 - [Nursing and Midwifery Board of Australia v INZ \(Review and Regulation\) \[2018\] VCAT 99](#) - Review and Regulation List - Health Practitioner Regulation National Law (Victoria) Act 2009 ss 5; 193(1); 196(2). Breach of conditions on registration. Professional misconduct. Delay. Reprimand. Open Courts Act 2013 ss17; 30.

Western Australia

21 December 2017 - [Inquest into the Death of Sally Elizabeth Hopwood \(COR 2012 1193\) \[2017\] VicCorC 155](#).

LEGISLATION

Commonwealth

24 January 2017 - [National Health Determination under paragraph 98C\(1\)\(b\) Amendment 2018 \(No. 1\) \(PB 3 of 2018\)](#) - F2018L00059 - PB 3 of 2018 - as made.

24 January 2017 - [National Health \(Price and Special Patient Contribution\) Amendment Determination 2018 \(No. 1\) \(PB 2 of 2018\)](#) - F2018L00058 - PB 2 of 2018 - as made.

24 January 2017 - [National Health \(Listing of Pharmaceutical Benefits\) Amendment Instrument 2018 \(No. 1\) \(PB 1 of 2018\)](#) - F2018L00057 - PB 1 of 2018 - as made.

24 January 2017 - [National Health \(Prescriber bag supplies\) Amendment Determination 2018 \(No. 1\) \(PB 5 of 2018\)](#) - F2018L00056 - PB 5 of 2018 - as made.

24 January 2017 - [National Health \(Pharmaceutical benefits – early supply\) Amendment Instrument 2018 \(No. 1\) \(PB 4 of 2018\)](#) - F2018L00054 - PB 4 of 2018 - as made.

REPORTS

Australia. Department of Health

Media releases

24 January 2018 - [\\$69 million boost for fight against rare cancers and rare diseases](#) - The Australian Government is supporting Australia's best and brightest medical researchers in their fight against rare cancers and rare diseases with a \$69 million boost announced.

22 January 2018 - [Frailty warning for seniors as innovative new test promises healthier ageing](#) - Older Australian women are most at risk of frailty, according to new research that highlights how an online test and a series of simple interventions can help senior Australians maintain their independence and improve their health.

22 January 2018 - [New services for young children in Gympie](#) - Local families will benefit from a new \$120,000 service providing multidisciplinary early intervention to young children in Gympie who are at risk of falling behind in their development.

22 January 2018 - [Therapeutic Goods Administration opens consultation on the use of prescription opioids for pain](#) - Australia's medicines' regulator, the Therapeutic Goods Administration (TGA) has issued a discussion paper on the use and misuse of prescription strong opioids.

Private Health Insurance Circulars

[PHI 06/18 Rules Application Processing System \(RAPS\) PHI 05/18 Hospital Declaration.](#)

Medical Benefits Schedule

[The 1 February 2018 MBS files \(XML, DOC, PDF and ZIP\) are now available to download.](#)

[The 1 January 2018 MBS files \(XML, DOC, PDF and ZIP\) are now available to download.](#)

Australia. Health Practitioner Regulation Agency and the boards

24 January 2018 - [Quarterly registration data released](#) - The National Dental Board has released its quarterly registration data.

23 January 2018 - [Quarterly registration data released](#) - The National Board has released its quarterly registration data.

23 January 2018 - [Quarterly registration data released](#) - The National Aboriginal and Torres Strait Islander Health Practice Board has released its quarterly registration data.

23 January 2018 - [Quarterly registration data released](#) - The National Chinese Medicine Board has released its quarterly registration data.

22 January 2018 - [Call for applications](#) - Call for applications for appointment to the Scheduled Medicines Advisory Committee of the Optometry Board of Australia.

24 January 2018 - [Quarterly registration data released](#) - The Medical Radiation Practice Board has released its quarterly registration data.

Australia. Therapeutic Goods Administration (TGA)

23 January 2018 - [Submissions received and TGA response: Nomenclature of biological medicines](#) - Submissions received on the Nomenclature of Biological Medicines consultation have been published.

22 January 2018 - [TGA tenders](#) - Extended lodgement date for the Therapeutic Goods Evaluation Panel 16 February, 2018.

22 January 2018 - [Australian Public Assessment Reports for prescription medicines \(AusPARs\)](#) - Added Nitric oxide [VasoKINOX].

21 January 2018 - [TGA opens consultation on the use of prescription opioids for pain](#) - The TGA has issued a discussion paper on the use and misuse of prescription strong opioids, such as oxycodone, and whether there is a need for specific regulatory responses.

19 January 2018 - [Recall: APO-Metformin XR 1000 mg tablets](#) - Recall – risk of injury due to potential contamination with plastic fragment.

19 January 2018 - [Prescription medicines: registration of new chemical entities in Australia](#) - We have just published the first newly-registered medicines for 2018.

19 January 2018 - [Prescription medicines: new or extended uses, or new combinations of registered medicines](#) - We have just published the first newly-registered medicines for 2018.

19 January 2018 - [TGA presentation: Adoption of PIC/S Guide to GMP PE009-13 - Overview of changes and adoption process, 13 December 2017](#) - The TGA presented to CAPSIG on the adoption of the PIC/S Guide to GMP PE009.

19 January 2018 - [Human placenta ingestion](#) - Potential health risks and legal implications for placenta consumption.

Australian Commission on Safety and Quality in Health Care.

Publications

18 January 2018 - [Antimicrobial use in Australian hospitals: Results of the 2016 National Antimicrobial Utilisation Surveillance Program.](#)

11 January 2018 - [National Tall Man Lettering List.](#)

11 January 2018 - [Tall Man Lettering List: Issues register report 2017.](#)

22 December 2017 - [National Guidelines for On-Screen Display of Medicines Information.](#)

21 December 2017 - [National Model Clinical Governance Framework Fact Sheets.](#)

22 January 2018 - On the Radar – Issue 355 ([PDF 208KB](#)) ([Word 154KB](#))

15 January 2018 - On the Radar – Issue 354 ([PDF 242KB](#)) ([Word 163KB](#))

8 January 2018 - On the Radar – Issue 353 ([PDF 399KB](#)) ([Word 728KB](#))

Australian Digital Health Agency

16 January 2018 - [My Health Record system Release 9.2](#) - Release 9.2 of the My Health Record system is a technology release which will improve some functionality for both individuals and healthcare providers. There will be minor visible changes to the user experience, mainly to improve access on mobile devices.

16 January 2018 - [Blog: My Health Record – a critical tool in improving patient care](#) - The power of My Health Record was driven home to Adelaide-based GP Dr Chris Moy in an incident where he had to review an unwell patient who had been discharged early from hospital from another state without any information about his condition or follow up.

9 January 2018 - [Blog: Building a rich data repository of accurate information](#) - My Health Record Expansion Programme Deputy Chair Dr Steve Hambleton discusses My Health Record.

Now that I have the ability to easily and securely share information on the My Health Record, my understanding of the purpose of my notes and in particular my health summary has changed from an aide memoire for myself to a collection of information that can benefit my patient as they touch other parts of the health system. An up-to-date shared health summary can be rapidly accessed by the other healthcare practitioners my patients encounter to help them make much more informed decisions to maximise benefits and minimise misadventure.

22 December 2017 - [Blog: My Health Record - Connecting Pharmacists to the Healthcare Team](#) - Rachel Dienaar, a locum pharmacist who works mainly at the Nubeena Pharmacy on Tasmania's Tasman Peninsula, recently shared her My Health Record story with Andrew Daniels as published in [In The Know magazine on Friday 15 December 2017.](#)

22 December 2017 - [Blog: Nudging digital health with David Halpern](#) - We talk to the British psychologist who specialises in getting big results from small well-judged inputs.

22 December 2017 - [Blog: My Health Record – get on board](#) - Townsville-based GP Dr Ron Malpas has been practising for 30 years.

He is Tiger Corrigan's GP. Tiger, who is 72 years old and suffers from multiple chronic conditions was featured in the recent [My Health Record Men's Health Kit GP](#). Here Dr Malpas shares his experiences with My Health Record.

18 December 2017 - [Statement on Daily Telegraph article regarding use of medical records](#) - My Health Record is a secure electronic health record, which enables health care providers and consumers to share health information securely.

Australian Capital Territory. Health Directorate

22 January 2018 - [Smile because the Child and Youth Dental Health Program is changing its opening hours!](#) - As of 15 January 2018, the Child and Youth Dental Health clinics at Belconnen and Tuggeranong Community Health Centres have changed—providing greater accessibility, with the option of early morning appointments.

New South Wales (NSW). Ministry of Health

Media Releases

23 January 2018 - [Free flu jab for NSW kids under five this winter](#) - Children between six months and five years old will be eligible for free flu jabs this year, under an influenza vaccination program to be offered by the NSW Government.

Premier Gladys Berejiklian announced today that the NSW Government is investing 3.5 million for the vaccination program, following last year's severe flu season.

22 January 2018 - [Forensic Medicine and Coroner's Court on track](#) - Construction of the \$91.5 million Forensic Medicine and Coroner's Court is on track, with a Topping Out ceremony today marking the 21st Century complex reaching its highest point.

Minister for Health Brad Hazzard and Attorney General Mark Speakman attended the ceremony at the Lidcombe site to mark the major milestone for the world-class facility.

Mr Hazzard said the complex is on track to open in 2019 and will deliver additional coronial services, courtrooms and vastly improved technology.

Guidelines

23 January 2018 - [Major Evacuation Centres: Public Health Considerations](#) - Document number: GL2018_002.

NSW. Health Care Complaints Commission

15 January 2018 - [Mr Yan Chi Cheung – Unsatisfactory professional conduct.](#)

15 January 2018 - [RN Merelita Ake – Professional misconduct - Registration cancelled.](#)

12 January 2018 - [Dr Christopher Chee – Unsatisfactory professional conduct.](#)

12 January 2018 - [Dr Keith Ian Brennan – Professional misconduct – registration cancelled.](#)

12 January 2018 - [Dr Ibrahim Hanna – Professional misconduct.](#)

12 January 2018 - [Mr David Cain – Professional misconduct.](#)

South Australia. Department for Health & Ageing

23 January 2018 - [Continued improvements in surgical outcomes](#) - The 2016 South Australian Audit of Surgical Mortality report released today shows the number of surgical deaths across the state has decreased from 583 in 2013 to 481 in 2016.

Western Australia (WA). Department of Health

23 January 2018 - [Minister for Health: WA again leads the way with meningococcal disease vaccinations](#) - In an Australian-first, the McGowan Labor Government today announced all Western Australian children aged one to four years will have access to a free meningococcal ACWY vaccine.

19 January 2018 - **Meningococcal disease in an infant** - The Department of Health today reported that an infant is recovering in hospital after being diagnosed with meningococcal disease (serogroup B).

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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