



HEALTH ALERT

11 July 2016

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JUDGMENTS

Commonwealth

30 June 2016 - [Prain v Comcare \[2016\] AATA 459](#) - In early 2011, Mrs Prain accepted a position at the Canberra Hospital. Within a few weeks, the animosity and criticism she was receiving from her co-workers caused a pre-existing condition of fibromyalgia (which can be aggravated by stress) to flare up. She resigned and has since brought a number of claims against Comcare for compensation arising from her employment at Canberra Hospital. A number of these claims were initially accepted by ComCare. In 2013, however, Comcare denied liability for a claim for permanent impairment and non-economic loss. Further, in 2015, ComCare determined that Mrs Prain no longer suffered from two previously accepted conditions. Mrs Prain sought to have both of these decisions reviewed by the Tribunal.

The main issues for the Tribunal to determine were '(a) whether Mrs Prain continued to suffer an ailment and (b) whether the circumstances of her employment in 2011 were still contributing, a significant degree, to that ailment'. A combination of the evidence assessed found that since 2011, Mrs Prain has had marital and family issues; anxiety caused from the Comcare litigation and the possibility of knee surgery; an unsettling clairvoyant reading; and a car accident. The Tribunal found that these events had the 'effect of pushing the employment factor further and further into the background'.

The Tribunal ruled in favour of Comcare and affirmed both of the decisions under review.

Australian Capital Territory

30 June 2016 - [Wang v Australian Capital Territory \[2016\] ACAT 71](#) - Dr Wang (the **applicant**) claimed to have been direct and / or indirectly discriminated against by the facilitator of internship programs in ACT hospitals (the **respondent**). The applicant was a medical practitioner in China before coming to Australia and being granted citizenship. In order to be registered as an Australian medical practitioner, the applicant was required to complete an internship program. His application for the 2014 internship at Canberra Hospital was unsuccessful. The issue in this hearing was whether the respondent's recently implemented 'internship policy' (the **Policy**) for prioritising applicants amounted to race discrimination under ACT legislation.

The respondent's Policy marked a major departure from the previous merit based regime. It meant that graduates from ANU Medical School were given first priority for internship positions in ACT hospitals. The respondent then prioritised graduates from various other Australian and New Zealand universities. Overseas trained doctors were considered last, giving Dr Wang and others in similar circumstances no real possibility of obtaining an internship.

The respondent conceded that the terms of the Policy treated overseas trained doctors unfavourably. Nevertheless, it was argued that there was still a theoretical chance of them being selected. The Tribunal rejected this as a defence. The Tribunal found that the respondent's implementation of the Policy amounted to discrimination. The Tribunal ordered that the applicant be considered on the merits for the next internship intake. The applicant was also awarded \$40,000 in compensation for the anxiety, embarrassment and humiliation he suffered as a result of the respondent's conduct.

New South Wales

6 July 2016 - [Simonsen v Health Care Complaints Commission \[2016\] NSWCATOD 87](#) - Registered nurse - cancellation of registration- drug abuse related professional misconduct - application for re-registration dismissed - failure to demonstrate no longer a risk to the public.

5 July 2016 - [Health Care Complaints Commission v MacGregor \[2016\] NSWCATOD 86](#) - Midwife, Unsatisfactory Professional Conduct, Professional Misconduct, Death of Infant.

4 July 2016 - [Yes Family Pty Ltd v Sphere Healthcare Pty Ltd \[2016\] NSWSC 917](#) - PRACTICE AND PROCEDURE – Preliminary discovery – whether requirements of r 5.3(1)(a) of Uniform Civil Procedure Rules are satisfied – whether plaintiff may be entitled to make a claim for relief that defendant has breached terms of commercial lease – whether plaintiff has been unable to obtain sufficient information to decide whether or not to commence proceedings – preliminary discovery ordered with respect to some categories of documents sought.

Queensland

6 July 2016 - [Inquest into the death of Garnett Allan Mickelo](#) - Findings into the death of Garnett Allan Mickelo

15 September 2015 - [The Medical Board of Australia v Gomez \(No 2\) \[2015\] QCAT 536](#) - PROFESSIONS AND TRADES – HEALTH CARE PROFESSIONALS – DISCIPLINARY PROCEEDINGS – PROFESSIONAL MISCONDUCT AND UNPROFESSIONAL CONDUCT – where the respondent was a general practitioner – where the respondent admits the conduct – where the respondent admits a sanction should be imposed – where the respondent consents to pay costs.

Western Australia

1 July 2016 - [Dental Board of Australia and Dhillon \[2016\] WASAT 78](#) - Vocational regulation - Dental practitioner - Disciplinary proceedings - Professional misconduct - Unprofessional conduct - Failure to disclose criminal charges and convictions pursuant to s 130 of the National Law - Failure to maintain adequate dental records - Breach of the Code of Conduct for registered health professionals - Providing deliberately misleading claims and information regarding dental treatment for a patient.

LEGISLATION

Commonwealth

5 July 2016 - [Private Health Insurance Supervisory Levy Imposition Determination 2016](#) - F2016L01163 as made.

South Australia

5 July 2016 - [Mental Health \(Review\) Amendment Bill 2016](#) - Has now passed both houses.

Western Australia

30 June 2016 - [Public Health \(Consequential Provisions\) Bill 2014](#) - Has now passed both houses.

REPORTS

Australia. Department of Health

Consultation

7 July 2016 - [Osteoarthritis of the Knee Clinical Care Standard - Public Consultation Survey](#) - The Australian Commission on Safety & Quality in Health Care (the Commission) is seeking feedback on the draft Osteoarthritis of the Knee Clinical Care Standard (closes 31 July 2016).

Media releases

Private Health insurance Circulars

6 July 2016 - [PHI 52/16 - Re-Declaration Private Same-Day Hospital Information](#)

6 July 2016 - [PHI 51/16 - New Private Hospital Information](#)

5 July 2016 - [PHI 50/16 - New Version \(version 1.13.0.0\) of Check-It 2 Released](#)

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

6 July 2016 - [Communiqué from the Board](#) - The Physiotherapy Board of Australia releases its latest communiqué.

5 July 2016 - [Communiqué from the Board](#) - The Optometry Board of Australia releases its latest communiqué.

5 July 2016 - [Communiqué from the Board](#) - The Osteopathy Board releases its latest communiqué.

4 July 2016 - [Communiqué from the Board](#) - The Podiatry Board of Australia releases its latest communiqué.

4 July 2016 - [New quarterly performance reports available](#) - The January to March 2016 quarterly performance reports for AHPRA and the National Boards are now available.

4 July 2016 - [Communiqué from the Board](#) - The Chinese Medicine Board of Australia releases its latest communiqué.

4 July 2016 - [Newsletter from the National Board](#) - The Nursing and Midwifery Board of Australia releases its latest newsletter.

4 July 2016 - [Communiqué from the Board](#) - The National Board has published its March and April communiqués.

Australia. National Health & Medical Research Council (NHMRC)

7 July 2016 - [NHMRC Health Tracker](#)

8 July 2016 - [NHMRC Research Tracker](#)

1 July 2016 - [Infectious Disease Emergency Response Research funding](#) - NHMRC has announced almost \$5 million in funding that commences today for the Centre of Research Excellence in Infectious Disease Emergency Response Research.

Australia. Therapeutic Goods Administration (TGA)

7 July 2016 - [Prescription medicines: new or extended uses, or new combinations of registered medicines](#) - new or extended uses for registered medicines.

7 July 2016 - [TGA Stakeholder Survey 2015-16 - questions and answers](#) - The TGA is seeking feedback on our communications and consultation activities, as well as our performance.

5 July 2016 - [Australian Public Assessment Reports for prescription medicines \(AusPARs\)](#) - Added Asfotase alfa (rch) (Strensiq) and Elvitegravir / Cobicistat / Emtricitabine / Tenofovir alafenamide (as fumarate) (Genvoya).

5 July 2016 - [James Leckey Design Mygo Stander](#) - Recall for product correction - small risk of injury due to design of angle adjustment mechanism.

5 July 2016 - [Chlorofluor Gel](#) - Update - additional information about recall process.

5 July 2016 - [Updates to the Prescribing Medicines in Pregnancy database](#) - Three new NCEs added and 1 entry amended.

5 July 2016 - [Medical Devices Safety Update, Volume 4, Number 4](#) - In this issue: intravenous catheter tests; recent safety alerts; Practice Points: The 'doctor's bag'; adverse event reporting compliance.

4 July 2016 - [The Poisons Standard \(the SUSMP\)](#) - New edition of the Poisons Standard SUSMP No. 13.

1 July 2016 - [Making a self declaration under the Annual Charge Exemption scheme](#) - This instructional video outlines the steps that sponsors need to take to make a self-declaration under the Annual Charge Exemption scheme through the TGA Business Services portal.

1 July 2016 - [Annual charge exemption scheme: Questions and answers](#) - 2016 annual charge exemption (ACE) scheme declarations of turnover.

1 July 2016 - [Fees and charges: summary - from 1 July 2016](#) - Fees and charges summary - from 1 July 2016 has been published.

29 June 2016 - [Prescription medicines: pre-submission pilot](#) - Extension to pre-submission pilot and online survey.

Australian Institute of Health & Welfare (AIHW)

5 July 2016 - [Poisoning in children and young people 2012–13](#)

4 July 2016 - [Peripartum hysterectomy in Australia: a working paper using the National Hospital Morbidity Database 2003–04 to 2013–14](#)

1 Jul 2016 - [Breast Screen Australia and National Cervical Screening Program Participation 2014–2015 \(web update\)](#)

Australian Commission on Safety and Quality in Health Care

On the Radar – 4 July 2016 – Issue 280 ([PDF 193KB](#)) ([Word 140KB](#))

5 July 2016 - [NIMC Audit Spreadsheet \(Excel 375KB\)](#)

1 July 2016 - [Pharmaceutical Benefits Scheme Hospital Medication Charts Development](#)

1 July 2016 - [Pharmaceutical Benefits Scheme Hospital Medication Charts](#)

Australian Capital Territory. Health Directorate

1 July 2016 - [Private sector workers covered for catastrophic injuries from 1 July](#) - Workers in the ACT who are catastrophically injured in a workplace accident will be able to access the Government's Lifetime Care and Support (LTCS) Scheme from tomorrow, acting Chief Minister Simon Corbell announced today. The ACT Government introduced the LTCS Scheme for Canberrans injured in motor accidents on 1 July 2014, following an agreement between the ACT and the Commonwealth, with a commitment to extend the Scheme to cover work injuries on 1 July 2016; and to consider other types of catastrophic injuries that may be included as part of the National Injury Insurance Scheme reforms.

New South Wales. Ministry of Health

Media Releases

7 July 2016 - [NSW Health urges hand washing to control gastroenteritis upswing](#) - NSW Health is urging the community to wash their hands and stay at home if affected by gastroenteritis, following an increase in emergency department presentations in hospitals across the state. More than 1600 people attended NSW emergency departments with gastroenteritis in the past week, a 14 per cent increase on the usual number for this time of year. More than 400 of these people were admitted to hospital, which is also above the usual range for this time of year.

6 July 2016 - [NSW Health warns clients of an unregistered Five Dock cosmetic practitioner to see their doctor for blood tests](#) - NSW Health is urging people who had cosmetic treatments at a Five Dock business run by Ms Pu Liu, also known as Mabel Liu, to see their GP for blood tests because of the risk of infections for blood borne viruses.

5 July 2016 - [NSW leads the way in health and arts collaboration](#) - The state's first Health and the Arts Framework was launched today at the NSW Art Gallery by Health Minister Jillian Skinner. The framework will guide the integration of the arts into the NSW health care system by supporting collaboration between local health services and the arts sector.

5 July 2016 - [Appointment of NSW Health Chief Nursing and Midwifery Officer](#) - Health Minister Jillian Skinner has today officially welcomed the new Chief Nursing and Midwifery Officer of NSW Health, Jacqui Cross.

5 July 2016 - [NSW children provided with compassionate access to cannabis-based medicine](#) - In an Australian first, NSW children with severe treatment-resistant epilepsy will be provided with compassionate access to Epidiolex®, a GW Pharmaceuticals cannabis-based medicine. Epidiolex is an oral pharmaceutical formulation of pure cannabidiol (CBD), a non-psychoactive component of the cannabis plant.

Publications

6 July 2016 - [Easy Steps to Health](#)

Information Bulletins

6 July 2016 - [Remuneration Rates for Visiting Medical Officers](#)

Queensland. Department of Health

7 July 2016 - **Reunion for hospital's tiny battlers** - The reunion brought together children cared for in the unit since it opened in 2001 together with their families and neonatal unit staff for the first time in many years.

7 July 2016 - **Thargomindah's Alison Petty goes above and beyond for her local community** - Thargomindah Community Health Care Clinic's Alison Petty is an all rounder in the true sense. For the past six years, she has worked at the South West Hospital and Health Service clinic as both an administration and operational services officer. She does everything from mowing the grass, keeping the garden tidy, undertaking patient Xrays, administration and being a volunteer ambulance driver - and that's all in a part-time role

7 July 2016 - **Dengue virus has a new distant relative** - A new strain of dengue virus discovered by Queensland scientists could help researchers evaluate the effectiveness of potential vaccines and treatments for the disease

7 July 2016 - **Charleville dental assistant's leadership inspires riding for charity** - Charleville Hospital senior dental assistant Clare Castles and her team of cycling enthusiasts have raised nearly \$50,000 for charity since 2013.

South Australia. Department for Health & Ageing

1 July 16 - **Statement from SA Health - Chlorofluor Gel product recall** - The TGA has issued a product recall for batch number BK 119 of the antibacterial mouthwash Chlorofluor Gel, including all bottle sizes. The TGA has advised that while investigations are ongoing, testing of unopened bottles of Chlorofluor Gel from batch BK 119 has detected high levels of *Burkholderia cepacia* (*B. cepacia*), prompting the recall.

5 July 16 - **Glyceryl trinitrate tablets - Anginine® and Lycinate®** - The Therapeutic Goods Administration (TGA) has issued a safety advisory for consumers and health professionals regarding reports that glyceryl trinitrate (GTN) tablets sold in Australia under the brand names Anginine® and Lycinate®. Tablets are taking longer than expected to dissolve under patient's tongues, and can be difficult to break in half. May lead to patients not receiving adequate or timely therapy, and may impact patient safety. Reports to the TGA have only indicated issues with the NEW FORMULATION of both Anginine® and Lycinate® (circular tablet). Products have not been recalled at this time, although the TGA is investigating reported issues. Spray - based GTN, marketed as Nitrolingual® Pump Spray is not affected.

30 June 16 - **Ceftriaxone – cluster of reported severe reactions** - The Clinical Excellence Commission (CEC) in NSW has had a cluster of cases reported involving significant reactions to ceftriaxone. Patients affected have had no record of previous allergies/reactions, and the reactions occurred within minutes of administration

Victoria. Department of Health

7 July 2016 - **Labor Government Delivers Record Funding For Hospitals** - More patients will receive the care, treatment and surgeries they need sooner with the Andrews Labor Government spending a record \$16.47 billion across the entire health system this year. Minister for Health, Jill Hennessy, today visited the Royal Children's Hospital to announce the 2016/17 budget allocations for Victorian hospitals.

7 July 2016 - **More Victorians To Have Their End-Of-Life Wishes Respected** - More people with a terminal illness will be supported to die at home under the Andrews Labor Government's new End-of-Life and Palliative Care Framework. The Framework recognises that the current system of palliative care is out-dated, is not in line with community expectations and will not meet future demand.

Western Australia. Department of Health

Media Releases

7 July 2016 - **Minister for Health: Health research big winner from Lotterywest** - World-leading Western Australian health research is the latest beneficiary of a Lotterywest grant, after a record year of Lotterywest sales saw more than \$281.41 million returned to the community.

6 July 2016 - [KEMH celebrates a century of special deliveries](#) - More than 300,000 West Australians have been born at King Edward Memorial Hospital since it opened its doors on July 6, 1916 and today it celebrates a special birthday of its own as it turns 100.

6 July 2016 - [Researchers investigate broader role for breast scans](#) - Linked data, provided by WA Health's Data Linkage Branch, will be used to help a team of WA researchers determine whether mammograms (x-rays of the breast) – routinely provided to Western Australia women between the ages of 50 and 74 – could be used to screen for diseases other than breast cancer.

Mandatory Policy

1 July 2016 - [Data Reporting Requirements for Episodes of Admitted Maintenance Care](#) - The purpose of this is to advise applicable health services of the requirement to capture and report data on Resource Utilisation Groups - Activities of Daily Living for patients admitted to hospital with a care type of Maintenance Care. Policy framework: [Information Management Policy Framework](#)

Publications

18 July 2016 - [Western Australian Immunisation Strategy 2016–2020](#) - currently being finalised and will be published soon.

New Zealand. Ministry of Health

30 June 2016 - [Weight Management in 2–5 Year Olds](#) - Addressing overweight and obesity is a government priority. Nearly one third of New Zealand children are either overweight or obese. This is an issue that can have serious long-term effects on the health and wellbeing of children as they grow older. Evidence shows that diet, excess weight and physical inactivity are 3 major modifiable risk factors that contribute to early death, illness and disability in New Zealanders. Through helping to identify children who are overweight and obese and providing weight management support, we can help to improve their wellbeing both now and into the future. Weight Management in 2–5 Year Olds is a practical resource to equip health providers with the most up-to-date evidence-based tools to monitor, assess and manage overweight and obese patients.

30 June 2016 - [Guide to Effective and Safe Practice in Youth Mentoring, Aotearoa New Zealand, 2nd Edition](#) - The Guide is a useful resource for anyone supporting youth development including: mentoring, and youth development programme providers, social service agencies that deliver mentoring services, school based mentoring programmes and funders.

United Kingdom. Department of Health

5 July 2016 - [Health advice for people travelling to a Zika affected area](#) - With a month to go before the Rio Olympic Games start, Chief Medical Officer Professor Dame Sally Davies sets out the official health advice regarding the Zika virus.

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

6 July 2016 - [HHS announces new actions to combat opioid epidemic](#) - U.S. HHS Secretary Sylvia M. Burwell today announced several new actions the department is taking to combat the nation's opioid epidemic.

Australian Medical Association (AuMA)

8 July 2016 - [AuMA Family Doctor Week - 24-30 July 2016](#) - AuMA Family Doctor Week is on 24-30 July. It is the AuMA's annual celebration of the hard work and dedication of Australia's GPs – your family doctors.

3 July 2016 - [Stable Government needed to deliver meaningful health reform](#) - AuMA President, Dr Michael Gannon, said that Australia needs to see a stable Government emerge from the close election result if meaningful health reform is to be achieved.

British Medical Association (BMA)

1 July 2016 - [Opt-out scheme saves lives, figures show](#) - Dozens of lives have been saved since Wales introduced its opt-out system of organ donation six months ago, new figures have revealed.

ABOUT US

Caroline Atkins



Caroline Atkins is the Office Managing Partner for the Canberra office of DLA Piper and has worked extensively in the health sector for Australian Government agencies. Her experience includes the conduct of major technology projects for the health sector, such as in the e-health and aged care sectors, and in advising the Commonwealth on the implementation of policy programs in contractual arrangements (including for medical indemnity insurance and for CSO arrangements for PBS funding). She has also advised the National Blood Authority on major Commonwealth contracts for the supply of blood products including with the Red Cross and CSL. Caroline's commercial experience extends over 30 years and also includes significant experience in ICT outsourcing, whole-of-government technology procurements, intellectual property rights licensing, contract management, procurement strategy and dispute resolution.

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