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JUDGMENTS

New South Wales (NSW)

6 May 2014 - [Health Care Complaints Commission v Khalsa \(No 2\) \[2014\] NSWCATOD 47](#)

This was an application made by the Health Care Complaints Commission to the New South Wales Civil and Administrative Tribunal seeking orders for the cancellation of a practitioner's registration and a two year period before the practitioner can apply for reregistration. The practitioner made no submissions in response.

This was the second stage of findings regarding the practitioner's conduct. In stage one of the same proceeding, the Tribunal had found the practitioner, who was a registered nurse and midwife, guilty of unsatisfactory professional conduct relating to a home birth which resulted in the baby suffering oxygen deprivation. The Tribunal also found the practitioner guilty of professional misconduct for failing to make proper clinical records during the birth and for later submitting records that were false and misleading.

The Tribunal reprimanded the practitioner, ordering the cancellation of her registration as a nurse and practitioner and prohibited her from applying to be reregistered for two years. The Tribunal considered these orders appropriate to protect the public. In coming to this decision, the Tribunal considered the serious nature of her dishonest misconduct. It also considered there to be a high likelihood that she would reoffend given her unprofessional attitude and unwillingness to change her practice. It also took into consideration the practitioners noncompliance with orders of the NSW Supreme Court in separate proceedings. After being found negligent in respect of a birth where a baby suffered hypoxia and was left with cerebral palsy, she was arrested and remanded in custody attempting to leave the country and after failing to attend a hearing relating to the examination of her finances.

The Tribunal ordered the midwife to pay the Health Care Complaints Commission's costs of the proceedings.

7 May 2014 - [Crook v Health Care Complaints Commission \[2014\] NSWCATOD 50](#)

Application to determine appropriate review body. Whether "spent" condition requires a review hearing. Where inconsistency in language in the statute. Held opportunity afforded to AHPRA and Council to make submissions or relist, failing which Council is nominated as appropriate review body.

6 May 2014 - [Health Care Complaints Commission v Bennett \[2014\] NSWCATOD 46](#)

Medical practitioner; Professional misconduct; Unsatisfactory professional conduct.

11 April 2014 - [Zahr v TALK Life Limited \[2014\] NSWSC 358](#)

Mental health - malingering - difficulties of determining - fragility of clinical judgment. Insurance - disability policy - claim for partial disability due to illness - mental illness - depression and anxiety.

Queensland

8 May 2014 - [Pharmacy Board of Australia v Tavakol \[2014\] QCAT 112](#)

This was the first of two decisions by the Queensland Civil and Administration Tribunal relating to the sale of pseudoephedrine products from a pharmacy between June 2009 and July 2010. The respondent owned the pharmacy and is a registered pharmacist. The Pharmacy Board of Australia alleged that the conduct of the pharmacist, in relation to these sales, amounted to professional misconduct.

The Tribunal found there was a marked increase in the volume of pseudoephedrine ordered from the pharmacy which did not reflect seasonal trends. In dispensing pseudoephedrine product, pharmacists had failed to engage in discussions to ascertain whether customers had any therapeutic need for pseudoephedrine or counsel them on the use of the product. This led to the pharmacy being targeted by drug runners.

The Tribunal found the conduct of the pharmacist fell substantially below the standard reasonably expected of a pharmacist and amounted to professional misconduct. While the pharmacist only worked at the pharmacy one day a week, the Tribunal found that the proper discharge of his professional responsibilities included being sufficiently aware of the nature and extent of the failing of others.

The Tribunal reprimanded the pharmacist, suspended his registration for one month. The Tribunal imposed a number of conditions on his registration following the suspension involving supervision, mentoring and the completion of further training.

8 May 2014 - [Pharmacy Board of Australia v Hung \[2014\] QCAT 148](#)

This was the second decision by the Queensland Civil and Administration Tribunal relating to the sale of pseudoephedrine products from a pharmacy between June 2009 and July 2010. The respondent is a registered pharmacist and was employed full time at the pharmacy. The Pharmacy Board of Australia alleged that the conduct of the pharmacist, in relation to these sales, amounted to professional misconduct. Alternatively, they argued his conduct constituted unprofessional conduct.

The Tribunal found there was a marked increase in the volume of pseudoephedrine ordered from the pharmacy which did not reflect seasonal trends. In dispensing pseudoephedrine product, pharmacists had failed to engage in discussions to ascertain whether customers had any therapeutic need for pseudoephedrine or counsel them on the use of the product. This led to the pharmacy being targeted by drug runners. The pharmacist had facilitated large sales of pseudoephedrine to customers who made repeat purchases. He also had access to the pharmacy's electronic dispensing database which included patient's records of purchases of pseudoephedrine products.

The Tribunal found the conduct amount to unprofessional conduct as the public and pharmacist's peers would expect a registered pharmacist to dispense medication in accordance with professional codes and standards. The Tribunal did not agree that the conduct of the pharmacist amounted to professional misconduct.

The Tribunal reprimanded the pharmacist but declined to suspend his registration. The Tribunal imposed a number of conditions on his registration involving supervision, mentoring and the completion of further training.

Australian Capital Territory (ACT)

8 May 2014 - [Kaye v Woods \[2014\] ACTSC 84](#)

Appeal – appeal from interlocutory decision of Master – proper scope of appeal from Master under s 9 of *Supreme Court Act 1993* (ACT) – considered but not decided – grounds in appeal led respondent to believe that appeal would be in *House v The King* sense. Appeal – whether Master erred in exercise of discretion – appellant failed to demonstrate error in Master's decision – appeal dismissed. Practice and procedure – pleadings – amendments – application by plaintiff to amend Statement of Claim five years after proceedings were commenced – action for damages for medical negligence – whether expert report provides evidentiary basis for proposed amendments – trial date previously vacated.

2 May 2014 - [Medical Board of Australia v Speldewinde \(Occupational Discipline\) \[2014\] ACAT 27](#)
Occupational discipline – Health Practitioner – disciplinary matter relating to medical practitioner – *Health Practitioner Regulation National Law (ACT) (National Law)* – inappropriate conversation and physical conduct with the female patients - application for consent orders pursuant to s 55 of the *ACT Civil and Administrative Tribunal Act 2008* – referral from panel to the ACT Civil and Administrative Tribunal under s 190 of *National Law*- whether the draft statement of particulars before the Tribunal is limited by the scope of notice given by the panel to the practitioner under s 184 of the National Law – whether allegations originally before the panel could be amended in the tribunal - *Human Rights Act 2004 (ACT)* - 'free' consent before medical treatment - whether undermined by inappropriate conversation and physical conduct - making of consent order.

Victoria

2 May 2014 - [Inquest into the death of Lawrence Steele Billing COR 2012 005406](#)

Death from type 2 respiratory failure secondary to aspiration pneumonia with contribution from a number of underlying medical problems while the deceased was cared from in a residential care facility.

LEGISLATION

28 March 2014 - [Veterans' Entitlements \(Treatment Principles – Rehabilitation Appliance Program\) Amendment Instrument 2014](#).

15 April 2014 - [Treatment Principles \(Australian Participants in British Nuclear Tests\) 2006 \(Rehabilitation Appliance Program\) Amendment Instrument 2014](#).

28 March 2014 - [MRCA Treatment Principles \(Rehabilitation Appliance Program\) Amendment Instrument 2014](#).

REPORTS

Australia. Department of Health & Ageing

Media releases

5 May 2014 - [Commission Report on Delivery of Health Services in Tasmania a Damning Indictment of Labor](#).

5 May 2014 - [Community Sport Gives Kids a Healthy Start](#).

5 May 2014 - [Australians with Hearing Loss to Have Faster, Easier Access to Hearing Services](#).

5 May 2014 - [Ear Health Vital as Australians Age](#).

5 May 2014 - [Opening of the World Congress of Audiology](#).

Private Health insurance (PHI) Circulars

6 May 2014 - [PHI 30/14 2014 Lifetime Health Cover Direct Mailout](#).

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

9 May 2014 - Call for practitioner members from the Northern Territory for appointment to the Northern Territory Board of the Medical Board of Australia. [Read Article](#).

9 May 2014 - The Medical Radiation Practice Board of Australia releases its May newsletter. [Read Article](#).

8 May 2014 - The Australian Health Workforce Ministerial Council appoints a new National Board Chair and health practitioner member. (Nursing & Midwifery) [Read Article](#).

7 May 2014 - AHPRA welcomes National Board appointments and reappointment announced by the Australian Health Workforce Ministerial Council. [Read Article](#).

7 May 2014 - AHPRA congratulates Dr Anne Fletcher on her appointment as community member to the Chinese Medicine Board of Australia. [Read Article](#).

7 May 2014 - AHPRA congratulates Dr Lynette Cusack, RN, on her appointment as Chair of the Nursing and Midwifery Board of Australia, and Adjunct A/Prof Veronica Casey on her appointment as the new health practitioner member for Queensland. [Read Article](#).

7 May 2014 - AHPRA congratulates Ms Mary Edwards on her appointment as community member to the Medical Radiation Practice Board of Australia. [Read Article](#).

7 May 2014 - The National Board has published its April communiqué. [Read Article](#).

7 May 2014 - AHPRA congratulates Dr Rodney (Rod) Wellard on his reappointment for a second term as community member to the Pharmacy Board of Australia. [Read Article](#).

6 May 2014 - The National Podiatry Board has released its quarterly registration data. [Read Article](#).

5 May 2014 - The National Psychology Board has released its quarterly registration data. [Read Article](#).

5 May 2014 - The Nursing and Midwifery Board of Australia recognises the International Day of the Midwife. [Read Article](#).

5 May 2014 - The National Aboriginal & Torres Strait Islander Board has released its quarterly registration data. [Read Article](#).

2 May 2014 - The National Physiotherapy Board has released its quarterly registration data. [Read Article](#).

2 May 2014 - The National Pharmacy Board has released its quarterly registration data. [Read Article](#).

2 May 2014 - The Aboriginal and Torres Strait Islander Health Practice Board of Australia invite you to attend its stakeholder forums. [Read Article](#).

2 May 2014 - The Medical Radiation Practice Board of Australia is undertaking public consultation on a review of registration standards. [Read Article](#).

2 May 2014 - The National Occupational Therapy Board has released its quarterly registration data. [Read Article](#).

2 May 2014 - The National Board has released its quarterly registration data. [Read Article](#).

2 May 2014 - The National Medical Radiation Practice Board has released its quarterly registration data. [Read Article](#).

2 May 2014 - The National Osteopathy Board has released its quarterly registration data. [Read Article](#).

2 May 2014 - The Osteopathy Board of Australia releases its latest communiqué. [Read Article](#).

2 May 2014 - The National Chinese Medicine Board has released its quarterly registration data. [Read Article](#).

2 May 2014 - The National Medical Board has released its quarterly registration data. [Read Article](#).

Australia. Therapeutic Goods Administration (TGA)

9 May 2014 - [Updated pre-submission planning form](#) Amendments have been made to the prescription medicines pre-submission planning form.

8 May 2014 - [Alere INRatio2 PT/INR heparin-insensitive test strips](#) Alere has issued a safety alert for Alere INRatio2 PT/INR heparin-insensitive test strips due to the potential for incorrect INR results.

8 May 2014 - [Important annual charge and LVT deadlines](#) Information for sponsors on important financial dates for 2014.

8 May 2014 - [Scheduling news](#). News about scheduling medicines and poisons.

8 May 2014 - [Reporting problems](#). Added report an adverse event to a vaccine contact information.

8 May 2014 - [Reasons for scheduling delegates' final decisions, May 2014](#). Reasons for decisions by the Delegate of the Secretary to the Department of Health for amendments to the Poisons Standard.

7 May [TGA approach to disclosure of commercially confidential information \(CCI\)](#). The TGA has obligations to ensure it develops, documents, implements and reviews appropriate security measures to protect information

7 May 2014 - [Liquid nicotine and personal importation for use in electronic cigarettes](#). The Western Australian Supreme Court recently decided that the ban on the sale of products that are designed to resemble a tobacco product in the Tobacco Products Control Act 2006 (WA) extends to electronic cigarettes.

7 May 2014 - [Treatment of information provided to the TGA](#). Information that is provided to TGA, such as personal, business or commercially confidential information, is treated as official information.

7 May 2014 - [Submissions received: Draft TGA approach to disclosure of commercially confidential information \(CCI\)](#).

7 May 2014 - [Robust tablets](#) pose a serious risk to your health and should not be taken.

7 May 2014 - [Listed medicines evidence package checklists](#). Minor updates made to the checklist forms for easier useability.

6 May 2014 - [Documents released under Section 11C of the Freedom of Information Act 1982](#).

6 May 2014 - [TGA Industry Working Group \(IWG\)](#). Updated the IWG meeting outcomes information.

6 May 2014 - **Orphan drugs**. Added Bevacizumab (AVASTIN)

2 May 2014 - **Clinical guidelines**. Added guidelines under endocrinology, anti-infectives, haematology/cancer, nervous system, clinical safety.

2 May 2014 - **Ying Dao Di capsules** pose a serious risk to your health and should not be taken.

2 May 2014 - **Section 23 instruments**. Updated section 23 instruments (approval of prescription medicines application forms).

Australian Institute of Health & Welfare

8 May 2014 - **Trends in coronary heart disease mortality: age groups and populations** | [media release](#).

5 May 2014 - **National Key Performance Indicators for Aboriginal and Torres Strait Islander primary health care: First national results June 2012 to June 2013**.

Australian Commission on Safety and Quality in Health Care

5 May 2014 - On the Radar – Issue 172 ([PDF 179KB](#)) ([Word 239KB](#)).

Australia. National Mental Health Commission

6 May 2014 - **Three Mental Health Commissioners appointed**.

New South Wales (NSW). Ministry of Health

Media Releases

5 May 2014 - **NSW Health Launches Online Campaign to Lift Awareness About Hepatitis C**.

5 May 2014 - **Praise for midwives on special day**.

Policy Directives & Guidelines

5 May 2014 - **New South Wales Health Services Functional Area Supporting Plan (NSW Healthplan)**.

Northern Territory. Department of Health

8 May 2014 - **Major reforms pass to establish health services framework**.

7 May 2014 - **Multi-million dollar upgrade on track for RDH Paediatric ward**.

7 May 2014 - **Time to celebrate territory nurses and midwives**.

Queensland. Department of Health

9 May 2014 - **Diabetes support for Mackay mums**. Extra support and education is being put in place for women in the Mackay region, according to a report in the Daily Mercury.

9 May 2014 - **Technology hands hope to stroke victims**. A \$50,000 prize snared in a Gold Coast Health staff innovation competition will help stroke victims such as Terry Fitzgerald to regain use of their arms.

8 May 2014 - **Could smart phones cause melanoma revolution?** Increasing awareness of skin cancer has seen the smart phone world responding with numerous apps to increase diagnoses.

8 May 2014 - **Nurse researcher joins QEII**. Enhancing a culture of research and innovation is the goal of QEII Jubilee Hospital's newest staff member, nurse researcher Bronwyn Griffin.

7 May 2014 - **What is stopping you from quitting?** A new advertising campaign targeted at 25 to 44 year-olds is seeking to further reduce Queensland's smoking rates. Health Minister Lawrence Springborg said the \$1.65 million campaign would tell smokers the rest of Queensland has quit and 'it's time you did too'.

7 May 2014 - **Better care for Queensland's sickest children**. Kids with complex health needs will have better access to specialists from today with the announcement of a statewide care team that will help families across Queensland.

6 May 2014 - [Information regarding Rockhampton Hospital](#). Concerns about patient safety and patient safety systems in Rockhampton Hospital have led to the termination of a senior medical administrator and the hospital's head surgeon.

South Australia. Department for Health & Ageing

8 May 2014 - First country mental health inpatient unit opens in Whyalla. [Read more.](#)

4 May 2014 - Emergency Department waits to jump from 20 to 98 minutes. [Read more.](#)

Victoria. Department of Health

2 May 2014 - [Suspected contamination of "Provive" Propofol](#).

6 May 2014 - [World-class health care for rural and regional Victoria](#). The Victorian Coalition Government will make Victoria's rural and regional health system even healthier and ensure all Victorian families have access to world-class health care, Minister for Health David Davis said today.

6 May 2014 - [\\$1.4 billion boost to make our health system healthier](#). The Coalition Government will invest an additional \$1.4 billion in the health of Victorians in the *2014-15 Victorian State Budget*, providing hospitals with unprecedented capacity, Minister for Health David Davis said today.

6 May 2014 - [Coalition Government building a healthier Victoria 2](#). The Victorian Coalition Government is building a healthier Victoria by investing in new facilities to deliver world-class health care, Minister for Health David Davis said today.

6 May 2014 - [Coalition Government building a healthier Geelong](#). The Victorian Coalition Government is building a healthier Geelong by investing \$28 million in Barwon Health North, which will deliver health care close to home, Premier Dr Denis Napthine and Minister for Health David Davis said today.

5 May 2014 - [Hospitals ready to meet a surge in winter ills](#). The Victorian Coalition Government is building a healthier Victoria by providing \$60 million to Victorian public hospitals to help them cater for a surge in cases of winter illness, Minister for Health David Davis said today.

5 May 2014 - [\\$8 million for more surgery to help obese patients](#). The Victorian Coalition Government is building a healthier Victoria by providing additional funding assistance to provide obese patients with surgery to help control their condition, Minister for Health David Davis said today.

4 May 2014 - [\\$190 million boost for elective surgery](#). The Victorian Coalition Government is building a healthier Victoria through an additional \$190 million to deliver more elective surgery procedures, Minister for Health David Davis said today.

Western Australia. Department of Health

Media Releases

8 May 2014 - [Treasurer: Health budget tops \\$8 billion](#).

7 May 2014 - [The Efficient Delivery of Quality Services - State Budget 2014-15: Funding to continue Closing the Gap work](#).

6 May 2014 - [Tenders called for \\$31.3m Esperance Health Campus redevelopment](#).

New Zealand. Ministry of Health

8 May 2014 - [Independent report into newborn hearing screening released](#).

7 May 2014 - [Psychoactive substances law change to take effect](#).

United Kingdom. Department of Health

8 May 2014 - [Directions: Health Education England and National Health Service \(NHS\) Litigation Authority](#).

8 May 2014 - [Improving food in hospitals and schools](#).

8 May 2014 - [Fire safety in the design of healthcare premises \(HTM 05-02\)](#) Part of a collection: [Health technical memoranda](#).

7 May 2014 - [Supplying asthma inhalers to schools for emergency use](#).

7 May 2014 - [Jeremy Hunt: message to NHS staff on their excellent performance](#).

7 May 2014 - [NHS e-procurement strategy](#) Part of a collection: [NHS procurement](#).

7 May 2014 - [Responses from Children and Young People's Health Outcomes Forum](#).

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

8 May 2014 - [Observing National Mental Health Awareness Month](#).

7 May 2014 - [Data breach results in \\$4.8 million HIPAA settlements](#).

7 May 2014 - [New HHS data show quality improvements saved 15,000 lives and \\$4 billion in health spending](#).

Australian Medical Association (AuMA)

8 May 2014 - [Dr Hambleton, 2CC Canberra, 8 May 2014](#). AuMA President Dr Steve Hambleton talks about doctors no longer giving out sick notes but rather notes that say what a person can or cannot do.

7 May 2014 - [Government must commit long-term funding certainty to Aboriginal Health Services](#)
AuMA President, Dr Steve Hambleton, today welcomed the Government's decision to extend funding for Aboriginal Community Controlled Health Services for another twelve months, but said a longer-term.

2 May 2014 - [Two candidates for Federal AuMA Presidency](#). There will be an election to decide the next Federal AuMA President, with two nominations for the position being received at close of nominations today.

British Medical Association (BMA)

8 May 2014 - [Call for more staff to relieve emergency care pressure](#). The BMA has warned that more medical staff will be needed to tackle extreme pressures in emergency departments.

8 May 2014 - [Healthcare coalition identifies 'burning issues' facing NHS](#). Politicians must accept seven 'burning issues' facing the health and care system and address them in their election manifestos.

7 May 2014 - [Thousands sign e-petition against health reforms](#). More than 3,000 people have signed a BMA online petition calling for the repeal of healthcare legislation.

The petition was launched by the BMA last week as part of its Health and Social Care Act ... is it Working? campaign. Doctors and medical students fear the reforms introduced by the act are damaging the NHS in England.

6 May 2014 - [Doctors leaders condemn execution fiasco](#). The BMA has condemned the botched execution of an American prisoner as a criminal act of torture.

Canadian Medical Association (CMA)

2 May 2014 - [CMA call for palliative care strategy gets federal backing](#).

American Medical Association (AMA)

2 May 2014 - AMA [State Mandates for Physician Participation in Capital Punishment Violate Medical Ethics](#).

8 May 2014 - [Physicians to discuss policy around MOC, GME financing](#). A full slate of pressing medical education issues will be discussed by the AMA Council on Medical Education at the AMA Annual Meeting in June, including maintenance of certification (MOC) and graduate medical education (GME) financing.

ABOUT US

Mark Williams



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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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