



HEALTH ALERT

9 DECEMBER 2013

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JUDGMENTS

Commonwealth

3 December 2013 - [Shane McWhinney v Melbourne Health \[2013\] HCASL 180](#)

Mr McWhinney suffered from bipolar i disorder with differential diagnosis of schizoaffective disorder.

Proceedings were commenced in November 2007 in the County Court. Before the trial judge he argued that Melbourne Health negligently assessed him as meeting the criteria under the *Mental Health Act (Vic)* (the Act) for involuntary admission as a psychiatric patient and that his subsequent involuntary admission was an unlawful detainment. The trial judge found in favour of Melbourne Health.

Mr McWhinney appealed, arguing, among other things, that the trial judge's finding that it was reasonable for Melbourne Health to assess him as meeting the criteria for involuntary admission was "glaring improbable" and the trial judge was incorrect in concluding that Melbourne Health had complied with the procedural requirements of the Act.

The Court of Appeal dismissed the appeal, holding that the trial judge's findings were not glaringly improbable and plainly open and there was no evidence that Melbourne Health had failed to comply with those procedural requirements.

Mr McWhinney applied for special leave to appeal to the High Court, arguing that the Court of Appeal had exhibited apprehended bias, including that it had refused to admit fresh evidence regarding "the very serious issue of state sponsored stalking."

Bell J concluded that there was no merit to any of the proposed grounds of appeal and no reason to doubt the correctness of the Court of Appeal's decision. The appeal would therefore have no prospect of success. Mr McWhinney's application was dismissed.

2 December 2013 - [Glendon Gillard and Minister for Health \[2013\] AATA 859](#)

Practice and procedure – jurisdiction – Australian Register of Therapeutic Goods – annual registration charge – low value turnover exemption – no application for exemption made within prescribed time – no decision to refuse exemption – Tribunal has no jurisdiction.

Northern Territory

20 November 2013 - [Inquest into the death of Sara Lorraine Hampel \[2013\] NTMC 025](#)

Ms Hampel died waiting to be transferred to Royal Darwin Hospital; cause of death was multiple organ failure due to streptococcus pyogenes Group A infection. The infection source was unclear, but likely related to recent childbirth, yet Ms Hampel presented with no usual features of post-partum sepsis. The key issue was early recognition of sepsis and failure to diagnose before it was too late. At time of death, there were no protocols regarding early recognition of sepsis at either hospital.

Ms Hampel presented at Gove hospital with right leg pain after falling in the shower. After excluding Deep Vein Thrombosis (DVT), the treating doctor was unable to diagnose her condition, and sought assistance from Darwin Hospital in the hope of transferring her care. The treating doctor was put through to a junior doctor, rather than a consultant, who recommended against transfer, preferring further testing. In the absence of diagnosis, nine hours after presentation, arrangements were made for Ms Hampel to be transferred to Darwin, but she went into cardiac arrest and died during delay in take-off.

Ms Hampel's only chance of survival was prompt diagnosis, administration of antibiotics and priority transfer to Darwin for surgery to remove necrotising fasciitis. Coroner Cavanagh found both doctors were hampered by the absence of sepsis recognition protocols, a key problem for the treating doctor who had nothing to guide her as to the correct diagnosis. Ms Hampel's death led to extensive overview by the Health Department, and the implementation of protocols on early recognition of sepsis.

New South Wales (NSW)

5 November 2013 - [AMH v Western New South Wales Local Health District \[2013\] NSWADT 282](#)
Government information public access - access to information - confidential information - personal information.

2 December 2013 - [Health Care Complaints Commission v Dr Nair \[2013\] NSWMT 19](#)
Serious criminal conduct, breach of conditions, deregistration.

4 December 2013 [AOZ and Rail Corporation New South Wales \[2013\] NSWADT 279](#)
Privacy -health information - workers compensation - clinical notes.

27 November 2013 - [St Vincent's Private Hospital v Hassoun \[2013\] NSWCCPD 67](#) (published 4-Dec-13) Application to Strike Out Pre-filing Statement by virtue of s 151DA of the *Workers Compensation Act 1987*.

Queensland (QLD)

26 July 2013 - [Azam v Medical Board of Australia \[2013\] QCAT 588](#) (published 2-Dec-13)
Health care professionals - medical practitioners - licences and registration - where the Board took immediate action under s 156 of the *Health Practitioner Regulation National Law (Queensland)* and imposed conditions on the registrant's registration – where the registrant sought a stay of the Board's decision – whether a stay of the Board's decision should be granted.

LEGISLATION

Commonwealth

27 November 2013 - [National Health Act Pharmaceutical Benefits - Early Supply\) Amendment December 2013 - specification under subsection 84AAA\(2\) \(No. PB 83 of 2013\) F2013L02014 • PB 83 of 2013 as made.](#)

26 November 2013 - [National Health Act 1953 - Amendment determination under paragraph 98C\(1\)\(b\) \(No. PB 80 of 2013\) F2013L02015 • PB 80 of 2013 as made.](#)

27 November 2013 - [National Health \(Efficient Funding of Chemotherapy\) Special Arrangement Amendment Instrument 2013 \(No. 11\) \(No. PB 79 of 2013\) F2013L02023 • PB 79 of 2013 as made.](#)

27 November 2013 - [National Health \(Highly specialised drugs program for hospitals\) Special Arrangement Amendment Instrument 2013 \(No. 8\) \(No. PB 78 of 2013\) F2013L02011 • PB 78 of 2013 as made.](#)

26 November 2013 - [National Health \(Pharmaceutical Benefits - Therapeutic Groups\) Amendment Determination 2013 \(No. 4\) \(No. PB 77 of 2013\) F2013L02010 • PB 77 of 2013 as made.](#)

26 November 2013 - [National Health \(Listed drugs on F1 or F2\) Amendment Determination 2013 \(No. 7\) \(No. PB 76 of 2013\) F2013L02008 • PB 76 of 2013 as made.](#)

26 November 2013 - [National Health \(Listing of Pharmaceutical Benefits\) Amendment Instrument 2013 \(No. 13\) \(No. PB 74 of 2013\) F2013L02013 • PB 74 of 2013 as made.](#)

26 November 2013 - [Military and Rehabilitation and Compensation Act \(MRCA\) Treatment Principles\(No. MRCC 53/2013\) F2013L02016 • MRCC 53/2013 as made.](#)

26 November 2013 - [MRCA Pharmaceutical Benefits Scheme\(No. MRCC 44/2013\) F2013L02012 • MRCC 44/2013 as made.](#)

27 November 2013 - [Health Insurance \(Pharmacogenetic Testing\) Determination 2013 \(No. 1\) F2013L02018 as made.](#)

25 November 2013 - [Health Insurance \(Accredited Pathology Laboratories - Approval\) Amendment Principles 2013 \(No. 1\) F2013L02017 as made.](#)

22 November 2013 - [Therapeutic Goods \(Listing\) Notice 2013 \(No. 7\) F2013L02033 as made.](#)

21 November 2013 - [National Health Amendment \(Simplified Price Disclosure\) Bill 2013](#) Introduced House of Representatives.

Victoria

29 October 2013 - [Disability Amendment Bill 2013](#) - First Reading Legislative Assembly.

Western Australia

4 December 2013 - [Mental Health Legislation Amendment Bill 2013](#) - Legislative Assembly Second Reading.

REPORTS

Australia. Department of Health & Ageing

Media releases

5 December 2013 - [Recognising our volunteers](#). Minister for Health and Sport Peter Dutton has urged the community to celebrate International Volunteer Day.

2 December 2013 - [Address to the World Diabetes Congress](#). The Minister for Health, Peter Dutton, address to the World Diabetes Congress Melbourne.

2 December 2013 - [Opening speech at the World Diabetes Congress Melbourne](#). The Assistant Minister for Health, Senator Fiona Nash, delivered the opening speech at the World Diabetes Congress.

Private Health Insurance (PHI) Circulars

29 November 2013 - [PHI 81/13 Private Hospital Information Name and Address Change - ACT](#).

29 November 2013 - [PHI 80/13 Private Hospital Information Name and Address Change – QLD](#).

29 November 2013 - [PHI 79/13 Payment of the 2013 Private Health Insurance Complaint Levy](#).

5 November 2013 - [PHI 83/13 New Private Hospital Information](#).

5 November 2013 - [PHI 82/13 New Private \(Same-Day\) Hospital Information](#).

Australia. Health Practitioner Regulation Agency and the boards

6 December 2013 - The Podiatry Board of Australia releases its latest communiqué. [Read Article](#).

5 December 2013 - The Pharmacy Board of Australia releases its latest communiqué. [Read Article](#).

5 December 2013 - The Physiotherapy Board of Australia releases its latest communiqué. [Read Article](#).

5 December 2013 - Professional capabilities for medical radiation practice released. [Read Article](#).

2 December 2013 - The Medical Radiation Practice Board of Australia has released an update on the finalised supervised practice arrangements for 2014 for: diagnostic radiographers, radiation therapists, and nuclear medicine scientists/technologists. [Read Article](#).

2 December 2013 - National Aboriginal & Torres Strait Islander Health Practice Board to waive 2013 renewal late fee. [Read Article](#).

29 November 2013 - The Dental Board of Australia releases its latest communiqué. [Read Article](#).

29 November 2013 - Medical The Board releases its latest communiqué. [Read Article](#).

29 November 2013 - Call for applications for appointment to state and territory boards of the Medical Board of Australia. [Read Article](#).

29 November 2013 - Call for applications for appointment to state and territory boards of the Nursing and Midwifery Board of Australia (NMBA). [Read Article](#).

29 November 2013 - Call for applications for appointment to state and regional boards of the Psychology Board of Australia. [Read Article](#).

29 November 2013 - Call for applications for appointment to the Osteopathy Board of Australia. [Read Article](#).

Australia. National Health & Medical Research Council (NHMRC)

2 December 2013 - [NHMRC CEO webcast - 4 December at 3:00pm AEDT](#).

Australia. Therapeutic Goods Administration (TGA)

5 December 2013 - [TGA presentation given at Parenteral Drug Association Chapter, 2 December 2013](#). The presentation provides an overview of Quality Risk Management requirements in the Code of the good manufacturing practice (GMP) in combination with inspection expectations and observations.

4 December 2013 - [Advisory committee on the safety of vaccines \(ACSOV\) meeting statement, meeting 3, 25 October 2013](#).

4 December 2013 - [Children's Panadol 1-5 years suspension](#). GlaxoSmithKline (GSK) is recalling two batches of Children's Panadol one to five years suspension.

4 December 2013 - [Australian Public Assessment Reports for prescription medicines \(AusPARs\)](#) Added Adalimumab (rch), Ivermectin, Pertuzumab (rch), Interferon beta-1a.

3 December 2013 - [GS1 Recallnet Healthcare and the TGA](#) The TGA wishes to clarify that it is not a requirement for sponsors of therapeutic goods in Australia to join GS1 Recallnet Healthcare to undertake recall actions.

3 December 2013 - Documents released under Section 11C of the [Freedom of Information Act 1982](#) Added FOI 241-1011 documents.

3 December 2013 - [Australian statistics on medicines and vaccines 2012](#). A report for 2012 has been prepared for incorporation into the Department of Health publication Australian statistics on medicines.

2 December 2013 - [Orphan drugs](#) - added Blinatumomab.

2 December 2013 - [Submissions received: TGA guidance on release for supply for medicines manufacturers](#) Submissions received on the consultation for TGA guidance on release for supply for medicines manufacturer.

2 December 2013 - [Slimming Factor \(also known as Easy Trim, Que She and Chinese Herbal Diet Pills\)](#). The TGA advises that the distributor has initiated a recall of Slimming Factor pills (also known as Easy Trim, Que She and Chinese Herbal Diet Pills) as they pose a serious health risk.

2 December 2013 - [Medicines Safety Update, Volume 4, Number 6, December 2013](#) - December 2013 edition of the Medicines Safety Update.

2 December 2013 - [Phen Tabz tablets](#). Phen Tabz tablets poses a serious risk to your health and should not be taken.

29 November 2013 - [OxyELITE Pro capsules \(New Formula\)](#). OxyELITE Pro capsules (New Formula) pose a serious risk to your health and should not be taken.

Australian Institute of Health & Welfare

5 December 2013 - [National Social Housing Survey: detailed results 2012 | media release](#).

2 December 2013 - [Using the Juvenile Justice National Minimum Data Set to measure juvenile recidivism](#).

Australian Commission on Safety and Quality in Health Care

4 December 2013 - [Health Complaints Commissioners strongly support implementation of "Open Disclosure" \(Communiqué from the Health Complaints Commissioners\)](#). Health Complaints Commissioners from across Australia strongly support implementation of "Open Disclosure" in all jurisdictions.

2 December 2013 - [On the Radar – Issue 155 \(80KB\)](#).

Australian Capital Territory. Health Directorate

29 November 2013 - [Towards Zero Growth](#). Healthy Weight Action Plan outlines a whole of government approach to making healthy lifestyle choices.

3 December 2013 - [Gene Technology Consultation](#). ACT Health invites written submissions from interested persons or parties on the future of gene technology in the ACT.

5 December 2013 - [ACT health system satisfaction](#). Approximately 85 per cent of people are very satisfied with the ACT health system says a new report.

New South Wales. Ministry of Health

Media Releases

29 November 2013 - [Viral infection affecting young babies circulating in NSW](#).

29 November 2013 - [\\$34.8 Million Shoalhaven Cancer Centre Officially Open](#).

3 December 2013 - [\\$79.8 Million Cancer Centre Taking Shape at Prince of Wales Hospital](#).

3 December 2013 - [More Milestones for \\$6.5 Million Muswellbrook Emergency Department Redevelopment](#).

4 December 2013 - [NSW Government commits \\$400,000 to plan next stage of Wagga Wagga redevelopment](#).

5 December 2013 - [Patients to benefit from new \\$6.4M Kurri Kurri Sub-Acute Unit](#).

Policy Directives & Guidelines

6 December 2013 - [Retention of bodies - Approval to retain bodies for longer than permitted](#) GL2013_015.

6 December 2013 - [Triage of patients in NSW Emergency Departments](#) PD2013_047.

5 December 2013 - [Exhumation of human remains](#) PD2013_046.

5 December 2013 - [Shallow burial](#) PD2013_045.

4 December 2013 - [Cremation of more than one body simultaneously](#) GL2013_014.

4 December 2013 - [Peripheral Intravenous Cannula \(PIVC\) insertion and post insertion care in adult patients](#) GL2013_013.

2 December 2013 [Infants and children: Acute management of bacterial meningitis](#) PD2013_044.

Northern Territory. Department of Health

5 December 2013 - [Robyn Lambley - health regulations open for consultation](#). Antiquated health regulations, such as barbers requiring certificates to confirm they do not have tuberculosis, are up for review as well as new laws to address today's public health risks.

4 December 2013 - [Robyn Lambley - commitment to alcohol mandatory treatment continues](#). The Country Liberals Government is continuing its commitment to treat some of the most vulnerable and chronically ill people in the Territory, highlighting its plans for phase two of the roll out of Alcohol Mandatory Treatment.

29 November 2013 - [Robyn Lambley - awards honour contribution to disability services](#). Some of the Territory's greatest supporters of people with a disability were honoured at an awards ceremony in Darwin this evening.

29 November 2013 - [Robyn Lambley - second public forum for Palmerston Regional Hospital](#)
Residents of Palmerston and the rural area are once again invited to a community consultation to discuss plans for phase one of the Palmerston regional hospital.

Queensland. Department of Health

4 December 2013 - [Cape and Torres health services to merge](#). The Cape York and Torres Strait–Northern Peninsula Hospital and Health Services will merge to improve health service delivery for residents in the far north.

6 December 2013 - [Clinical services to remain in-house at Sunshine Coast Public University hospital](#) Queensland Health staff and the local hospital and Health Board will provide clinical services at the new Sunshine Coast Public University Hospital (SCPUH).

South Australia. Department for Health & Ageing

5 December 2013 - [SA discovery progresses to the world stage](#). A unique antibody discovered by a South Australian team in the late 1990s has led to the development of a potential new treatment for one of the most virulent forms of blood cancers, Acute Myeloid Leukaemia (AML).

5 December 2013 - [Fight the bite this summer](#). SA Health is reminding South Australians to ***Fight the bite*** this summer and protect themselves against mosquito-borne diseases.

Tasmania. Department of Health & Human Services

2 December 2013 - [Comments sought on smoke-free areas](#).

4 December 2013 - [Helping children in hospital through music](#).

4 December 2013 - [Planning safe parties](#).

Victoria. Department of Health

1 December 2013 - [World's MPs gather in Melbourne to fight diabetes](#). International parliamentarians are gathering in Melbourne to hear about the latest world-leading initiatives and share their experiences in fighting the rising rates of diabetes around the world.

1 December 2013 - [Victoria joins the fight to "Get to Zero!"](#) Minister for Health David Davis will address a reception to commemorate World AIDS Day today at Government House where Daw Aung San Suu Kyi, UNAIDS Global Advocate for Zero Discrimination, will deliver the keynote address.

2 December 2013 - [World diabetes experts land in Melbourne for Australia's largest ever health conference](#). Victorian Minister for Health David Davis today welcomed the 22nd World Diabetes Congress to Melbourne – the largest health conference in Australia's history.

3 December 2013 - [Foundations poured for Bendigo Hospital Project](#). Construction is progressing rapidly on the \$630 million Bendigo Hospital Project with its concrete foundations being poured today.

3 December 2013 - [Q fever cases in Grampians Region - 3 December 2013](#).

3 December 2013 - [New psychiatric unit opens at Sunshine hospital](#). Sunshine Hospital's new psychiatrist unit will improve patient access and ease demand on the emergency department, Minister for Mental Health Mary Wooldridge said today.

5 December 2013 - [New community hospital for Geelong reaches major milestone](#). Geelong's brand new Waurin Ponds community hospital development has reached a significant milestone with the Victorian Coalition Government this week issuing registration of capability documents for the project.

5 December 2013 - [Victorians invited to "name that point"](#) Minister for Mental Health Mary Wooldridge and VicHealth CEO Jerril Rechter will today unveil a new campaign designed to spark a frank and open discussion about alcohol consumption levels.

5 December 2013 - [Work starts on multi-million dollar projects at Latrobe Regional Hospital](#). Work has officially started on a new five bed mother and baby unit and a new six-bed mental health unit for high care patients at Latrobe regional hospital.

Western Australia. Department of Health

Media Releases

6 December 2013 - [Kaleeya services to transfer to Fiona Stanley and Fremantle hospitals.](#)

Operational Directives

1 December 2013 - [Operational Directives \(OD\) 0477/13](#). Pressure injury prevention and management policy. This policy was developed to establish a consistent and evidence-based approach to pressure injury prevention and management across WA Health in accordance with the Australian Commission on Safety and Quality in Healthcare's National Safety and Quality Health Service Standard 8.

4 December 2013 - [Information Circulars \(IC\) 0170/13](#). Training requirements for hospital response teams and emergency management personnel Revised training expectations for staff who may potentially respond to a major incident including hospital response team members and emergency management personnel.

5 December 2013 - [OD 0479/13](#). Access for eligible midwives into public maternity units WA Health has agreed to implement a process to facilitate access for eligible midwives into public maternity units in accordance with element 1.2.1 of the national maternity services plan, which was endorsed by Australian Health Ministers in 2011.

New Zealand. Ministry of Health

5 December 2013 - [Community-led trial to improve Porirua health and social outcomes.](#)

United Kingdom. Department of Health

29 November 2013 - [Putting dementia on the map and driving up standards of care.](#)

29 November 2013 - [Top National Health Service \(NHS\) and university alliances recognised by Department of Health.](#)

29 November 2013 - [Update on investigations into Jimmy Savile and the NHS.](#)

29 November 2013 - [Ombudsman to offer better public redress service](#)

2 December 2013 - [£10 million competition for business to map rare cancer genes.](#)

2 December 2013 - [Multimillion boost to UK economy as healthcare trade deals with China sealed.](#)

3 December 2013 - [NHS medicines pricing deal with pharmaceutical industry.](#)

3 December 2013 - [Health and social care information centre \(HSCIC\) report on A&E.](#)

3 December 2013 - [UK and China: building a long-term relationship.](#)

4 December 2013 - [Watch the G8 dementia summit live on 11 December.](#)

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

5 December 2013 - [HHS awards \\$55.5 million to bolster America's health care workforce.](#)

Australian Medical Association (AuMA)

3 December 2013 - [Building a medical workforce for Australia's future.](#)

4 December 2013 - [Access to reproductive medicine should be free from political or religious interference.](#)

4 December 2013 - [Patients urged to heed doctors' follow-up advice.](#)

5 December 2013 - [Minimising electronic communication risks in medicine.](#)

5 December 2013 - [AuMA supports new technology in medical practice.](#)

6 December 2013 [AuMA Indigenous Health Report 2012-13.](#)

6 December 2013 [AuMA urges Government to protect Australia's public health interests in trade agreements.](#)

British Medical Association (BMA)

5 December 2013 - [NHS budget promise fails to include staff pay, says BMA.](#) Claims by the chancellor that the NHS budget is protected do not include the billions being saved, mostly in staff pay, the BMA insists.

5 December 2013 - [GMC exposes bullying of doctors in training.](#) Almost one in eight doctors in training has suffered bullying at work, a GMC survey reveals today.

5 December 2013 - [Private medical school starts recruitment despite fears.](#) A new private medical school has confirmed it will begin accepting students next year, as fears grow over the impact of such courses.

5 December 2013 - [Doctors decide: improving the NHS working environment.](#) The BMA's NHS culture project is attracting a wide range of views and suggestions. The Doctors Decide panel gives its reaction

4 December 2013 - [Scrap flawed part of lobbying bill, says BMA.](#) The 'pause' for further consultation over the controversial lobbying legislation is not long enough to repair all the flaws in the bill, the BMA has declared.

4 December 2013 - [Emergency department figures reveal extent of health inequality.](#) New figures analysing emergency department attendance 'shine a light on health inequality', the BMA has said.

29 November 2013 - [BMA welcomes prescribing rights for podiatrists.](#) BMA Northern Ireland has welcomed efforts to broaden prescribing rights for podiatrists by health, social services and public safety minister Edwin Poots.

Canadian Medical Association (CMA)

5 December 2013 - [New CMA policy leads to energy-drink ban in Ottawa.](#)

2 December 2013 [CMAJ launches Android app as CMA focuses on mobile devices.](#)

29 November 2013 - [The digital world: good or bad for MDs?](#)

26 November 2013 - [Medicine's Twitter traffic growing.](#)

American Medical Association

5 December 2013 - [Evaluating Medicare participation in 2014? Tools aid in decision-making.](#) A newly updated toolkit from the AMA can help physicians who wish to review their Medicare participation options for 2014 in light of a 24 percent cut scheduled for Jan. 1 if Congress doesn't first repeal the failed SGR formula.

5 December 2013 - [New guidelines aim to improve communications after unexpected hospital deaths.](#) A new set of guidelines from the AMA provide a framework for optimal communications between hospitals, associated physicians, medical examiners and next of kin following an unexplained or unexpected death in a hospital.

5 December 2013 - [Studies point to areas for improving resident education.](#) A review of recent literature about graduate medical education has revealed a number of common gaps in how medical residents are trained, including key indicators and side effects of inadequate supervision.

4 December 2013 - [AMA urges lawmakers to strengthen state-level health reform.](#) In testimony about the new health insurance exchanges, the AMA called on state lawmakers to implement several key solutions to improve health care in their states.

3 December 2013 - [Clinical implications of new opioid labeling: FDA expert explains during Dec. 11 webinar.](#) As annual drug overdose deaths continue to soar with about 43 percent involving prescription opioids—the U.S. Food and Drug Administration (FDA) has issued new labeling rules to help reverse the trend.

3 December 2013 - [AMA builds on proven, practical approaches to improve health nationwide](#). Now in its pilot stage, the AMA's improving health outcomes initiative is harnessing proven methods in a bid to achieve nationwide reductions in some of the most pressing and common conditions affecting the U.S. population, including type 2 diabetes.

ABOUT US

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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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