



HEALTH ALERT

12 September 2016

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JUDGMENTS

Commonwealth. Fair Work Commission

7 September 2016 - *Francis Logan v Bendigo Health Care Group* [2016] FWC 6363

Application for relief from unfair dismissal - permission to be represented by a paid agent or lawyer - permission granted.

2 September 2016 *Mitchell Graham v Globus Medical Australia Pty Ltd* [2016] FWCFB 5495

Permission to Appeal against decision [2016] FWC 3525 and order PR581332 of Senior Deputy President Drake at Melbourne on 15 June 2016 in matter number U2015/16602.

Victoria

8 September 2016 - *Dragojevic v Edmi Gas Pty Ltd (Ruling)* [2016] VCC 1315

The plaintiff is a 44-year-old worker who commenced employment with the defendant repairing gas meters in a factory. The plaintiff is seeking leave to bring common law proceedings for both 'pain and suffering damages' and 'pecuniary loss damages' within the meaning of the Accident Compensation Act 1985. He alleges to have suffered injury to his spine, left upper limb and right upper limb throughout the course of his employment with the defendant.

In these proceedings, the defendant makes application to refer several medical questions to a Medical Panel. The plaintiff submits that some of those questions depend substantially on the resolution of factual issues which are more appropriately determined by the Court than by a Medical Panel.

The Court found that the determination of factual issues can be within the scope of a Medical Panel's role. It accepted, however, that in certain circumstances, a court must consider whether it is appropriate to refer a medical question. Circumstances where it would not be appropriate include when the formation of an opinion by a Medical Panel would 'depend substantially on the resolution of factual issues'.

The Court held that the medical questions proposed by the defendant in these proceedings did not require a Medical Panel to formulate an opinion based substantially on the resolution of factual issues. The Court ordered that the questions sought to be referred by the defendant be referred.

Queensland

2 September 2016 - *Inquest into the death of Michael James Calder*

Mr Calder was aged 33 when he was referred by his GP to the Holy Spirit Northside Private Hospital (HSNPH). He had been suffering from headaches, as well as neck pain and stiffness. The GP referral letter noted he had similar symptoms four years previously when he was diagnosed with viral meningitis. Mr Calder underwent a number of tests whilst in the HSNPH Emergency Department. He was then admitted to the ward, where he received analgesia including subcutaneous morphine, liquid morphine (**Ordine**), slow release morphine (**MS Contin**), Gabapentin along with paracetamol and ibuprofen. On 11 July 2014, Mr Calder was found unresponsive and in cardiac arrest. He was pronounced deceased shortly after. This inquest was to determine whether the level of opiate medication that was being provided to Mr Calder was a contributing factor to his death.

The inquest revealed that Mr Calder had a history of obstructive sleep apnoea which was unknown to those treating him at HSNPH. The Coroner concluded that this, along with the accumulation of the medications peaking at the same time, resulted in an episode of aspiration and respiratory depression to which Mr Calder succumbed. A retrospective review of the medical records indicated that, despite regular checks, nursing staff did not pick up on the evidence of his respiratory function prior to finding him unresponsive.

The Coroner was satisfied that the HSNPH has since implemented changes which adequately address the issues raised while reviewing the circumstances of Mr Calder's death.

New South Wales

7 September 2016 - [Health Care Complaints Commission v Townsend \[2016\] NSWCATOD 118](#)

ADMINISTRATIVE LAW — Civil and Administrative Tribunal (NSW) — health practitioner — whether practitioner guilty of unsatisfactory professional conduct — whether practitioner guilty of professional misconduct — appropriate disciplinary orders where finding made that practitioner is guilty of professional misconduct.

7 September 2016 - [Health Care Complaints Commission v Lo \[2016\] NSWCATOD 119](#)

Unsatisfactory Professional Conduct – Professional Misconduct – Prescription of Schedule 4D and Schedule 8 drugs – without authority – without conducting appropriate assessment and examination of patients – in inappropriate combination – inappropriately in quantity and for a purpose not according with recognised therapeutic standards – when likely to be abused – without specialist referral – failing to keep adequate patient records.

2 September 2016 - [Health Care Complaints Commission v Tan \[2016\] NSWCATOD 115](#)

Medical Practitioner, psychiatrist, discipline, sexual assaults of patients, cancellation of registration.

LEGISLATION

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

Commonwealth

2 September 2016 [Private Health Insurance \(Prostheses\) Rules 2016 \(No. 4\)](#) - F2016L01386 as made.

2 September 2016 [National Health \(Weighted average disclosed price – October 2016 reduction day\) Amendment Determination 2016 \(No. 1\) \(PB 80 of 2016\)](#) - F2016L01381 as made.

Western Australia

2 September 2016 - [Health Promotion Foundation Act](#) - Fully commenced.

REPORTS

Australia. Department of Health

Media releases

8 September 2016 - [Three little words could save a life](#) - R U OK? Sometimes it's the simplest words that are the hardest to say, but today we are being encouraged to start a conversation with someone if we notice they are struggling to cope.

7 September 2016 - [Rural and Remote Health Needs Commitment](#) - Rural and remote health is built on the commitment, the expertise and the courage of the rural and remote health workforce the Assistant Minister for Rural Health, Dr David Gillespie, told a symposium on rural and remote health research in Canberra.

6 September 2016 - [Medicare items review backed by health professionals, patients](#) - The majority of health professionals and patients support the Australian Government's commitment to ensure every taxpayer dollar invested in Medicare delivers clinically-relevant, up-to-date and safe care, a new study has found.

6 September 2016 - [You Are Not Alone during Dementia Awareness Month](#) - September is Dementia Awareness month, and with one-in-10 Australians over the age of 65 affected, we're being encouraged to help sufferers feel less isolated and alone.

5 September 2016 - **WOMEN'S HEALTH WEEK: supporting women's health in a changing world 5-9 September 2016** - Women's Health Week is putting the focus on the health of Australian women and girls, with a range of events across the country and online activities to get women thinking about their health, and taking action to improve it.

4 September 2016 - **More than 2000 medicine brands to drop in price** - More than 2000 medicine brands treating common conditions will drop in price for millions of Australians from next month – some by as much as 50 per cent or more – with the Turnbull Government delivering a win-win for consumers and taxpayers.

3 September 2016 - **New medicine labels to promote safer use for consumers** - New consumer labels on medicines are being introduced to provide simpler instructions and to address safety concerns for people with allergies and reduce accidental overdose.

1 September 2016 - **The Australian Immunisation Handbook 10th Edition 2016 Update** - *The Australian Immunisation Handbook* 10th Edition has been updated. For a summary of key amendments that were made, refer to **1 August 2016**.

Private Health Insurance Circulars

6 September 2016 - **PHI 71/16 Declaration Private Same-Day Hospital Information**

Australia. Health Practitioner Regulation Agency and the boards

5 September 2016 - **Have your say: Independent review invites submissions on the use of chaperones** - Submissions are invited for an independent review on the use of chaperones to protect Australian patients, with detailed terms of reference being published today.

5 September 2016 - **Communiqué from the Board** - The Aboriginal and Torres Strait Islander Health Practice Board of Australia releases its latest communiqué.

7 September 2016 - **Communiqué from the Board** - The Chiropractic Board of Australia releases its August communiqué.

8 September 2016 - **Communiqué from the Board** - The Optometry Board of Australia releases its latest communiqué.

8 September 2016 - **Communiqué from the Board** - The Psychology Board of Australia has released the August 2016 communiqué.

Australia. Pharmaceutical Benefits Scheme

8 September 2016 - **Access to Medicines Working Group Communiqués** - The communiqués from the **February 2015**, **September 2015** and **April 2016** meetings of the **Access to Medicines Working Group** are now available.

5 September 2016 - **Australian Statistics on Medicines 2015** - The **Australian Statistics on Medicines for 2015** are now available.

Australia. Therapeutic Goods Administration (TGA)

9 September 2016 - **Australian Public Assessment Reports for prescription medicines (AusPARs)** - Added Lenvatinib mesilate (Lenvima).

8 September 2016 - **TGA statutory advisory committee and specialist advisor vacancies** - Committee Members and Expert Advisors are being sought from a range of fields.

8 September 2016 - **GlucaGen HypoKit** - Recall - risk of needles becoming detached from syringes.

8 September 2016 - [Comfort impregnated cloth topical skin products](#) - Recall – potential for bacterial contamination.

8 September 2016 - [TGA presentation: University of New South Wales, Faculty of Medicine, 19 August 2016](#) - This presentation provided an overview of working at the TGA for scientists and engineers, as an alternative to a career in academic research

6 September 2016 - [Medical Devices Safety Update, Volume 4, Number 5, September 2016](#) - In this issue: button battery dangers for children; Medical device Instructions for Use documents; Software as a medical device.

5 September 2016 - [MRA GMP clearance application processing timelines](#) - August update on MRA clearance application processing timelines.

5 September 2016 - [Prescription medicines: new or extended uses, or new combinations of registered medicines](#) - Added August entry.

5 September 2016 - [Australia's medicine labels are becoming clearer](#) - Over the next four years labels are changing to make it easier to find the information you need.

Australian Commission on Safety and Quality in Health Care

On the Radar – 5 September 2016 – Issue 289 ([PDF 124KB](#)) ([Word 151KB](#))

Australian Prudential Regulation Authority (APRA)

7 September 2016 - [APRA has released the intermediated general insurance statistics for June 2016](#)

New South Wales (NSW). Ministry of Health

Media Releases

7 September 2016 - [More admissions and surgeries at NSW hospitals](#) - NSW hospitals are admitting more patients and performing more elective surgeries than ever before, according to the latest Bureau of Health Information (BHI) report. The BHI Hospital Quarterly report for the April to June 2016 quarter found there were nearly 480,000 hospital admissions overall - the highest level ever reported and an increase of 4.7 per cent compared to the same time last year.

5 September 2016 - [Get active during Women's Health Week](#) - NSW Health is encouraging women to get active at the start of Jean Hailes Women's Health Week (5-9 September 2016), as recent statistics show men engage far more in regular exercise than women. According to the latest Australian Bureau of Statistics data released on Wednesday, 31 August, females aged 15 years and over are more likely than men to be sedentary or engaging in low levels of exercise (68.7 per cent of females vs. 61.2 per cent of males).

8 September 2016 - [\\$8 million to support people at risk of suicide](#) - Minister for Mental Health Pru Goward has announced that people at risk of suicide will receive more local support as the NSW Government opens expressions of interest for an \$8 million suicide prevention program to run over the next four years. The announcement comes on R U OK? Day 2016, a day dedicated to encouraging Australians to connect with people around them and support those who may be struggling.

Publications

6 September 2016 - [Memorandum of Understanding between Health and Family Planning Commission of Shandong Province and NSW Ministry of Health June 2016](#) - This memorandum of understanding outlines a commitment to identifying and developing opportunities for cooperation and collaboration between Health and Family Planning Commission of Shandong Province, the People's Republic of China and NSW Ministry of Health with respect to their shared interests.

Policy Directives & Guidelines

6 September 2016 - [Care Type Policy for Acute, Sub-Acute and Non-Acute and Mental Health Admitted Patient Care](#)

5 September 2016 - [Visiting Medical Officers- Rural Doctors Settlement Package Hospitals Indexation of Fees- 1/8/2016](#)

Information Bulletins

7 September 2016 - [Living Away from Home Allowance](#)

6 September 2016 - [Notification of Obsolete Guideline GL2005_025 - Antenatal Card](#)

New South Wales Health Care Complaints Commission

9 September 2016 - [Mr Alexander Townsend \(RN\) – Registration cancelled for Professional Misconduct and Impairment](#)

9 September 2016 - [Dr Ong Ming Tan – Registration cancelled](#)

Queensland. Department of Health

8 September 2016 - [QNI exit medicals to begin as tenderer named](#) - Exit medicals for Queensland Nickel workers who lost their jobs earlier this year will begin within days, with Sonic HealthPlus named as the successful tenderer to conduct the tests.

6 September 2016 - [New strategy to slash outpatient wait times](#) - Queenslanders can look forward to better access to specialist outpatient appointments thanks to a Queensland-first initiative and a significant funding injection to tackle wait lists from the Palaszczuk Government.

South Australia. Department for Health & Ageing

5 September 2016 - [International biotech pioneer to advise government on life sciences strategy](#) - Minister for Health Industries Jack Snelling has appointed Professor Horst Domdey to the Health Industries South Australia Advisory Board.

5 September 2016 - [Bring home showbags not show bugs](#) - The Health Minister and doctors have issued a timely warning to show-goers to maintain good hygiene practice if they are spending time around petting zoos and animal exhibits at this year's Royal Adelaide Show.

Tasmania. Department of Health & Human Services

6 September 2016 - [Expert advice on the RHH Redevelopment clean up](#) - The temporary inpatient facility at the Royal Hobart Hospital (RHH) is currently being refitted and is forecast for completion in October. We thank staff and patients for their patience during this unavoidable delay which was the result of mould caused by water damage during transit.

Western Australia (WA). Department of Health

Media Releases

9 September 2016 - [Minister for Health and Minister for Regional Development: Collie artwork salutes healthy interest in history](#) - Acclaimed public artist Jahne Rees will reflect local history and wildlife themes in a major artwork commissioned under the State Government's Percent for Art Scheme, as part of the Collie Health Service refurbishment.

7 September 2016 - [Minister for Health and Minister for Road Safety 10,000 teenagers attend PARTY to learn risks](#) - This week marks the milestone of the 10,000th student to participate in the Liberal National Government's award-winning, internationally recognised PARTY program, which educates young people about the dangers of alcohol consumption and high-risk behaviour.

7 September 2016 - **Premier and Minister for Health: WA in healthy partnership with African nations** - Surplus medical equipment from the decommissioning of Princess Margaret Hospital will be donated to African health facilities to help improve care in that region, Premier Colin Barnett said today.

7 September 2016 - **Milestones for Royal Perth PARTY Program** - This week marks the milestone of the 10,000 student to participate in Royal Perth Hospital's Prevent Alcohol and Risk-related Trauma in Youth (PARTY). Minister for Health John Day said 2016 also recognises the 10th anniversary of the program.

7 September 2016 - **Health Matters – Diabetes** - Department of Health teams up with Diabetes WA to share important information on diabetes.

5 September 2016 - **Minister for Health: WA community benefits from new Healthway era** - Health promotion in Western Australia has marked a significant milestone with new legislation enacted to govern Healthway and the appointment of a new board to lead the organisation.

2 September 2016 - **Safety of raw milk brand clarified** - The 'Made by Cow' brand of milk is safe for consumers to drink and can be sold legally in this State.

New Zealand. Ministry of Health

9 September 2016 - **New Zealand Autism Spectrum Disorder Guideline: Supplementary paper on cognitive behaviour therapy for adults with ASD** - This paper describes a systematic review which aims to provide an evidence-based synthesis of research published in or beyond 2004 relating to cognitive behaviour therapy for adults with autism spectrum disorder.

6 September 2016 - **'Ala Mo'ui Progress Report: June 2016** - This is the third six-monthly progress report on the implementation of 'Ala Mo'ui. It covers the period from January to June 2016.

Australian Medical Association (AuMA)

8 September 2016 - **Investing in rural doctor training pays off for communities in the bush** - The AuMA has intensified its call for increased Federal Government investment in rural training opportunities for doctors amid mounting evidence that it would improve access to health care for rural communities. A study published in the latest edition of the *Medical Journal of Australia* highlights that doctors who have a rural background and train in a rural area are much more likely to practice in a rural area in the long term.

8 September 2016 - **Ley launches health insurance overhaul** - The AuMA has been appointed as a key adviser to the Federal Government on reforms aimed at boosting competition in the private health insurance industry and reining in premium hikes. An AuMA representative will sit on the Private Health Ministerial Advisory Committee, which has been tasked by Health Minister Sussan Ley with overseeing the implementation of reforms including the introduction of a simplified ratings system for health policies and regulatory changes to reduce the upward pressure on premiums.

8 September 2016 - **Medicines Australia 'transparency reports' - what it means for you** - Health practitioners who receive payments from pharmaceutical companies can now expect their name and details of the payment to be made publicly available every six months. And from 1 October 2016, pharmaceutical companies will only be able to enter into relationships with practitioners who consent to this information being published.

8 September 2016 - **Statins still necessary** - The AuMA has warned against claims that a Mediterranean-style diet is better for treating heart disease than cholesterol-lowering drugs. A study presented at a global medical conference in Rome this week found that people with a history of heart attacks, strokes, and

blocked arteries who ate mainly along Mediterranean lines - with lots of nuts, fish, oils and vegetables - were 37 per cent less likely to die than others with similar health issues, regardless of statin use. The chair of the AMA's Council of General Practice, Dr Richard Kidd, said treatment should always start with diet and exercise but, for those at high risk, statins are necessary.

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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