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JUDGMENTS

Commonwealth

4 July 2014 - [Angelos v Minister for Health \[2014\] FCA 706](#)

This was an application made to the Federal Court of Australia for judicial review of a decision by the Minister for Health denying a pharmacist permission to provide Pharmaceutical Benefits from a newly proposed premises. The Minister rejected the pharmacist's application because the proposed location was more than a kilometre away from its existing location. The pharmacist asked the Minister to exercise her discretion to intervene, on the basis the pharmacy was one of only two late night pharmacies in the area. The Minister refused, determining that the community would continue to enjoy reasonable access to pharmaceutical benefits through a well-distributed network of local pharmacies.

The pharmacist argued the decision of the Minister should be quashed on a number of grounds, including that he had not been given an opportunity to provide a response to public submissions, including letters contending it would be inappropriate for the pharmacy to conduct a methadone program at the proposed location, because of the proximity of nearby schools and residential areas. The Minister argued she was not required to raise it with the pharmacist as she had not relied on these in making her decision.

The Court found the submissions were adverse to the pharmacist's application, he was not given adequate notice and he had not been given an opportunity to provide any response. Therefore, in making her decision, the Minister failed to accord him with basic procedural fairness.

The Court quashed the Minister's decision and referred the pharmacist's request back to the new Minister for further consideration.

Victoria

1 July 2014 - [Wilson v Western Health \(Human Rights\) \[2014\] VCAT 771](#)

This was an application alleging discrimination, breaches of human rights and breaches of the consumer law against a hospital heard by the Victorian Civil and Administrative Tribunal.

The application was made by a couple who the hospital had decided was not suitable to participate in its publicly founded home birth pilot program for the birth of their twelfth child. The decision was based on an assessment that the pregnancy was not "uncomplicated" due to a combination of the applicant's advanced maternal age and that she had previously given birth to more than ten children. The applicants sought damages and a declaration the decision was discriminatory. The hospital argued that the decision was not discriminatory as it was not based on any attributes of the applicant but rather her clinical risk factors.

The Tribunal dismissed the application, finding that the decision was not discriminatory. The Tribunal found the decision did not result in the applicants being treated unfavourably as it was in their best medical interests, and because a requirement that a woman's pregnancy is uncomplicated for participation in the hospital's program is entirely reasonable. Similarly it found that there was no evidence that the decision breached the consumer law. Finally, the Tribunal found that the decision did not breach the applicant's human rights as a patient's right to choose does not extend to forcing a health service provider to provide a service to a patient it has decided in accordance with accepted clinical practice, is unsafe for that patient and her unborn child.

8 July 2014 - [Brunswick Family Dental Pty Ltd v Dr Enegd \[2014\] VSC 325](#)

Restraint of trade — Interlocutory injunction — Former employer seeking to restrain contractor from engaging in rival dental practice within area of alleged restraint — Whether an agreement containing the alleged restraint of trade clause was made between the parties — Construction of the restraint clause in alleged agreement — Whether serious question to be tried — Whether damages an adequate remedy — Balance of convenience — In light of other factors, insufficient probability of success at trial to warrant interlocutory injunction — Application dismissed.

New South Wales

9 July 2014 - [Health Care Complaints Commission \(HCCC\) v Dr Hofer \[2014\] NSWCATOD 74](#)

Administrative law - Civil and Administrative Tribunal (NSW) - health practitioner - complaint - where it is asserted practitioner guilty of unsatisfactory professional conduct and professional misconduct - whether practitioner's prescribing practices lacking appropriate medical judgment or not in accordance with therapeutic standards - where asserted practitioner knew or should have known patients on an opioid replacement program - where some particulars of complaints are admitted - where it is asserted practitioner failed to keep proper medical records - where some particulars of complaint admitted - practitioner guilty of unsatisfactory professional conduct. Professional Misconduct - instances of unsatisfactory professional conduct when considered together with sufficiently serious nature to constitute professional misconduct. Costs - where practitioner admits complaint of unsatisfactory professional conduct in a timely manner - where mistake in complaint precludes practitioner from admitting further particulars - appropriate for practitioner to pay 50 per cent of costs of the HCCC.

8 July 2014 - [ALZ v WorkCover NSW \[2014\] NSWCATAD 93](#)

Privacy - information protection principle - personal information - Health information - Health privacy principle - use of health information - collection - disclosure - storage - accuracy of personal health information.

7 July 2014 - [Health Care Complaints Commission v Kwan \[2014\] NSWCATOD 72](#)

1. The registration of Dr Kwan as a medical practitioner be cancelled for a period of two years from this date. 2. Dr Kwan to pay the costs of the HCCC.

Queensland

20 May 2014 - [Medical Board of Australia v Chandra \[2014\] QCAT 271](#)

Health practitioner – Disciplinary proceedings – sexual and inappropriate conduct toward a female patient – where registrant failed to comply with immediate action conditions – where registrant wrote and caused three letters to be sent – where the first letter was sent to the patient at her home address advising that proceedings were being brought for defamation – where the second and third letters were forged and purported to be written by the patient – where the second letter was addressed to the Chairman of the Medical Board of Australia and advised that all allegations be withdrawn – where the third letter was addressed to the patient's solicitors and advised that amicable settlement had been reached - where certain allegations admitted – where professional misconduct admitted – where parties jointly proposed suspension and subsequent chaperone and reporting conditions when treating female patients for a period of 12 months upon resumption of practice – registrant to undertake education and counselling and report to the Board- registrant to pay the Board's costs as agreed.

26 May 2014 - [Troup v Medical Board of Australia \[2014\] QCAT 273](#)

Costs – where the Applicant applied to the Tribunal for costs of and incidental to an application for review of the decision by the Respondent to exercise its power under s 156 of the *Health Practitioner Regulation National Law Act 2009* – where an order for costs can be the sum agreed or a sum as fixed by the Tribunal – where Applicant was successful in revoking a decision that she not be allowed to practice and instead be subject to conditions – where it was submitted that the Respondent failed to consider the contents of a medical report – where the Respondent did not provide a copy of that report to the Applicant prior to making the decision to exercise its power – where an updated health assessment was required to provide the committee with an independent opinion on the practitioner's current health status and whether restrictions were necessary for ongoing patient safety- where the Respondent failed to demonstrate that there had been any consideration given to the recommendation of its own expert contained in that report – where, if it had, the matter was unlikely to have had of been before the Tribunal – where, in the circumstances, it was appropriate that an award for costs be made against the Respondent.

South Australia

8 July 2014 - [Finding of Inquest into the death of Aurora Doreen Maureen Sleep 24/2013 \(1870/2011\)](#)

Death of infant from hypoxic-ischaemic encephalopathy attributed to intrapartum asphyxia secondary to uterine rupture and subsequent displacement of the placenta and baby into the maternal abdominal cavity.

Western Australia

1 July 2014 - [Medical Board of Australia v Roberts \[2014\] WASAT 76](#)

Medical practitioner - Allegations of professional misconduct - Consultation notes which were derisory of and accusatory towards patients - Recommendation to discipline children by way of corporal punishment - Conduct below or substantially below standard reasonably expected of health practitioner of an equivalent level of training or experience.

LEGISLATION

Commonwealth

1 July 2014 - [DisabilityCare Australia Fund Investment Mandate Directions 2014](#) F2014L00971.

24 June 2014 - [Therapeutic Goods \(Excluded purposes\) Amendment Specification 2014 \(No. 1\)](#) F2014L00968.

30 June 2014 - [National Health \(Subsection 84C\(7\)\) Amendment Determination 2014 \(No. 1\)](#) F2014L00964 • PB 59 of 2014.

REPORTS

Australia. Department of Health & Ageing

Media releases

11 July 2014 - [Electronic donor record enhances Australian organ and tissue donation processes](#)
Assistant Minister for Health Fiona Nash has announced a new national clinical information system to streamline organ and tissue donation processes across Australian hospital networks.

10 July 2014 - [\\$35 million to advance Type 1 juvenile diabetes research](#). Minister for Education, Christopher Pyne MP and Minister for Health, Peter Dutton MP have announced the Australian Government's approval of \$35 million to advance research in the critical area of diabetes.

10 July 2014 - [Stick to the facts](#). Funding to hospitals in Queensland is growing by 13 percent in 2014-15 and by 39.9 per cent over the forward estimates.

10 July 2014 - [New agreement will continue Australia's efforts to eradicate trachoma](#). The Australian Government will provide \$16.5 million over four years to prevent and treat trachoma in Indigenous communities in New South Wales, Northern Territory, South Australia and Western Australia.

Private Health insurance (PHI) Circulars

10 July 2014 - [PHI 43/14 New private hospital information](#).

8 July 2014 - [PHI 42/14 New private hospital information](#).

7 July 2014 - [PHI 41/14 New public hospital information](#).

Australia. Health Practitioner Regulation Agency and the boards

10 July 2014 - The national Board has published its June communiqué. [Read Article](#)

9 July 2014 - The nursing and midwifery Board of Australia has released a tender on assessing internationally qualified nurses and midwives. [Read Article](#)

7 July 2014 - Call for applications for dental practitioners to join the dental Board of Australia's list of approved persons for appointment to panels. [Read Article](#)

7 July 2014 - The Chinese Medicine Board of Australia releases its latest communiqué. [Read Article](#)

7 July 2014 - The chiropractic Board releases its latest communiqué. [Read Article](#)

7 July 2014 - The dental Board of Australia releases its latest communiqué. [Read Article](#)

7 July 2014 - The osteopathy Board of Australia is undertaking public consultation on a review of the CPD guidelines. [Read Article](#)

7 July 2014 - The physiotherapy Board of Australia releases its latest communiqué. [Read Article](#)

7 July 2014 - physiotherapy Board Australia & New Zealand Binational entry level qualifying statements - communiqué July 2014. [Read Article](#)

Australia. Therapeutic Goods Administration (TGA)

10 July 2014 - [Australian Public Assessment Reports for prescription medicines \(AusPARs\)](#). Added nanoparticle albumin-bound (nab) paclitaxel (abraxane) and normal human immunoglobulin (hizentra).

9 July 2014 - [NexGen complete knee solution MIS stemmed tibial component \(various sizes\)](#). Zimmer has issued a hazard alert regarding its NexGen Complete Knee Solution MIS total knee procedure stemmed tibial component (various sizes).

9 July 2014 - [HIV self-tests in Australia: questions and answers](#). Questions and answers about HIV self-tests.

8 July 2014 - [HIV self-tests in Australia: Supply restrictions lifted](#). The Secretary of the Department of Health has signed the legislative instrument to amend the therapeutic goods (excluded purposes) specification 2010 to allow the future supply of HIV self-tests.

8 July 2014 - [Guidance 15: Biopharmaceutical studies](#). Updated guidance now available.

8 July 2014 - [TGA presentations given to Industry regarding the current Request for Tender information session, 10-12 June 2014](#). TGA information sessions regarding the current Request for Tender for new panel members for the TGA Therapeutic Assessment and Advisory Services Panel.

7 July 2014 - [Update 3: Provive and Sandoz propofol one percent emulsion for injection - all sizes and all batches](#). All sizes and batches of the AFT-distributed Provive and Sandoz Propofol one percent products are no longer under a precautionary supply restriction.

4 July 2014 - [Therapeutic Goods Committee \(TGC\) meeting statement, TGC 40, 20 June 2014](#).

3 July 2014 - [Public submissions on scheduling matters referred to ACMS #11](#). Further public submissions made in response to the invitation for public submission on the proposed amendments to the Poisons Standard.

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

3 July 2014 - [MSA hip system - femoral hip replacement with modular neck](#). Global orthopaedic technology is issuing a hazard alert for the MSA hip system due to it having a higher than expected revision rate.

Australian Institute of Health & Welfare

11 July 2014 - [Australia's medical indemnity claims 2012-13](#). [Read Article](#).

9 July 2014 - [Indigenous child safety](#). [Read Article](#)

9 July 2014 - [Access to primary health care relative to need for Indigenous Australians](#).

8 July 2014 - [Hospitalised injuries in older Australians: 2011-12](#). [Read Article](#)

Australian Commission on Safety and Quality in Health Care

9 July 2014 - [Improving the safety and quality of health care for the Aboriginal and Torres Strait Islander Community](#). The introduction of the National Safety and Quality Health Service (NSQHS) Standards, and assessment against these Standards in the acute sector is driving changes in health service delivery and improving patient safety and the quality of care provided. It is hoped that these changes will improve health outcomes for Aboriginal and Torres Strait Islander peoples accessing health care.

In a collaborative project with the Aboriginal and Torres Strait Islander community, jurisdictions, health services and others, the Commission is working towards improving the safety of care provided to Aboriginal and Torres Strait Islander peoples in main stream health services.

By determining the areas of greatest safety risk, the Commission and its partners can develop resources to support main stream health services to implement culturally appropriate safety systems and quality services. Information gained from the project will also inform the revision of the NSQSH Standards scheduled to commence in 2015.

7 July 2014 – On the Radar – Issue 181 ([PDF 87KB](#)) ([Word 116KB](#)).

Australian Capital Territory. Health Directorate

9 July 2014 - [Trauma recovery centre launch and symposium](#).

New South Wales. Ministry of Health

Media Releases

3 July 2014 - [Minister visits Bowral hospital](#).

Policy Directives & Guidelines

9 July 2014 - [Suspected Child Abuse and Neglect \(SCAN\) medical protocol](#) GL2014_012.

Information Bulletins

10 July 2014 - [Salary increases for staff in the NSW health service - Health Services Union \(HSU\) and ASMOF awards](#) IB2014_041.

8 July 2014 - [2014 Increases to salaries & allowances - Public health system and crown nurses' & midwives' awards](#) IB2014_040.

8 July 2014 - [Increases - wages and related allowances - operational ambulance officers and managers](#) IB2014_039.

Northern Territory. (NT) Department of Health

7 July 2014 - [NT Council of Social Services \(NTCOSS\) report finds less people deterred from health care by cost](#). A report by the NTCOSS has found the number of people deferring visiting a general practitioner because of cost has fallen dramatically under the country Liberals Government.

Queensland. Department of Health

11 July 2014 - [Dental blitz eliminates dental long waits](#). Minister for Health | The Honourable Lawrence Springborg | Queensland dental patients, including some who have been waiting up to ten years, have a new a reason to smile, with the Queensland Government completing a statewide blitz on dental waiting lists which has reduced the list to zero. Health Minister Lawrence Springborg said the waiting list for people getting their teeth fixed under Labor blew out to ten years.

9 July 2014 - [Job campaign sends timely message](#). Premier | The Honourable Campbell Newman | The Queensland Government's push to raise immunisation rates ramped up today with the unveiling of a new strategy, complete with a smart device immunisation app.

9 July 2014 - [Schools to boost adolescent immunisation rates](#). Premier | The Honourable Campbell Newman | The Queensland Government's new immunisation strategy will target adolescent immunisation rates through the school immunisation program.

9 July 2014 - [Vaccine pilot to protect mums and bubs](#). Premier | The Honourable Campbell Newman | A vaccination program for pregnant women will help protect their newborn babies from deadly whooping cough as part of the Queensland Government's new immunisation strategy.

9 July 2014 - [Pharmacy immunisation trial broadened](#). Premier | The Honourable Campbell Newman | Queenslanders are now able to be immunised against contagious diseases at their local pharmacy.

8 July 2014 - [Queenslanders respond to anti-smoking campaign](#). Minister for Health | The Honourable Lawrence Springborg | The Queensland Quitline service has experienced its busiest month in seven years; driven by the success of a two-pronged State-Government advertising and legislative anti-smoking campaign.

7 July 2014 - [Govt eyes ophthalmology waiting lists](#). Premier | The Honourable Campbell Newman | Patients with vision impairment or debilitating eye conditions such as cataracts will be major beneficiaries of a new ophthalmology blitz, delivering on the Queensland Government's election promise to revitalise frontline services.

7 July 2014 - [Queensland Hospitals get the tick of improved patient satisfaction](#). Minister for Health | The Honourable Lawrence Springborg | A State-wide survey has revealed across-the-board improvements in patient satisfaction with Queensland public hospitals and health care services.

Tasmania. Department of Health & Human Services

9 July 2014 - [Early access to defibrillation program launched](#).

Victoria. Department of Health

8 July 2014 - [Epworth Geelong hospital to introduce new approach to health care](#). Construction on Stage One of the new Epworth Geelong hospital is well underway, providing even more health care choices for Geelong's growing population and reducing demand on public health services.

6 July 2014 - [New cardiology services for Sunshine hospital](#). World class cardiac services will be delivered from Sunshine hospital for the first time thanks to a \$10.68 million Victorian Coalition Government funding boost.

Western Australia. (WA) Department of Health

Media Releases

10 July 2014 - [Telethon juvenile diabetes family centre boost](#).

8 July 2014 - [\\$325.8 million boost to regional health initiatives](#).

Operational Directives (OD)

10 July 2014 - [OD 0536/14](#) Reciprocal health care agreements – Amendment to the Medicare eligibility of foreign organ donors limited to kidney transplants. This directive advises health services of an amendment to Section 3.6 on Medicare eligibility of foreign organ donors, based on new advice from the Commonwealth Department of Health in which it now limits the Medicare eligibility of foreign organ donors to only kidney transplants.

10 July 2014 - [OD 0535/14](#) Health Information Network (HIN) procurement operations outlines procurement operations that must be followed by Health Information Network.

10 July 2014 - [OD 0534/14](#) Western Australia coding standard. The operational directive describes clinical coding standards applicable to all WA healthcare facilities that report inpatient morbidity data.

New Zealand. Ministry of Health

3 July 2014 - [New Zealand Spinal Cord Impairment Action Plan 2014–2019](#).

United Kingdom. Department of Health

10 July 2014 - [National Health Scheme \(NHS\) England accountability meeting minutes](#).

9 July 2014 - [Monitor and the Department of Health: framework agreement](#).

9 July 2014 - [Department of Health statements of new regulation](#).

8 July 2014 - [Alcohol industry takes action to tackle irresponsible drinking](#).

8 July 2014 - [Details of NHS ophthalmic fees for 2014](#).

7 July 2014 - [Fundamental standards: improving quality and transparency in care](#).

- 7 July 2014 - [Fundamental standards for health and social care providers.](#)
- 7 July 2014 - [Fit and proper person's test regulations.](#)
- 7 July 2014 - [Statutory duty of candour for health and adult social care providers.](#)
- 7 July 2014 - [Implementing the 0 to 25 special needs system](#) Part of a collection: [Early learning and childcare: guidance for providers.](#)
- 7 July 2014 - [Clinics authorised to carry out abortions.](#)
- 7 July 2014 - [Mental Health Act Code of Practice consultation launched.](#)
- 7 July 2014 - [Listening to what people think about types of providers of NHS care.](#)
- 7 July 2014 - [Changes to *Mental Health Act \(1983\) Code of Practice.*](#)
- 5 July 2014 - [Better care plans to provide dignity, independence and reduce A&E admissions.](#)
- 4 July 2014 - [Rare diseases.](#)
- 4 July 2014 - [Framework for personalised care and population health.](#) Part of a collection: [Public health contribution of nurses and midwives: guidance.](#)
- 4 July 2014 - [Donation of starting material for advanced cell-based therapies.](#)
- 3 July 2014 - [NHS injury costs recovery scheme: April 2014 to March 2015](#) Part of a collection: [DH NHS Injury Costs Recovery scheme.](#)

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

- 9 July 2014 - [Department of Justice and HHS call for action to address abuse of older Americans.](#)
- 9 July 2014 - [Health Care Innovation Awards to provide better health care and lower costs.](#)
- 8 July 2014 - [HHS announces the availability of \\$100 million in *Affordable Care Act* funding to expand access to primary care through new community health centers.](#)

Australian Medical Association (AuMA)

7 July 2014 - [Beach report further evidence that proposed co-payments hurt the most vulnerable.](#) AuMA President, A/Prof Brian Owler, said today that the highly-respected *Byte from the Beach* report from the University of Sydney provides further evidence that the Government's proposed co-payment for GP, radiology, and pathology services, and increased co-payments for medicines, will hit vulnerable patients the hardest.

British Medical Association (BMA)

- 10 July [BMA welcomes inquiry into "legal highs."](#) Doctors leaders have welcomed an inquiry into "legal highs" but have insisted that any policies must keep pace with the issue as it changes.
- 8 July 2014 - [Private bids prompt profit warning.](#) Patients' needs must remain a priority amid plans to outsource health services worth £1.2bn, the BMA has stressed.
- 8 July 2014 - [Call to maintain free prescriptions.](#) Family doctors remain opposed to the introduction of prescription charges.

Canadian Medical Association

8 July 2014 - [Court decision on refugee care applauded.](#) The Canadian Medical Association (CMA) joined other groups in welcoming a Federal Court decision ruling federal government cuts to refugee health care are unlawful.

American Medical Association (AMA)

10 July 2014 - [Who can provide input into values of Medicare services?](#) While actual payment rates for Medicare services are limited by congressional budget games, the relative values assigned to those services are carefully weighed based on the resources required to provide each service. You might be surprised about who can provide input to shape those values.

10 July 2014 - [Medical education explores competency-based assessment](#). More medical schools are moving their learning models toward competency-based assessment, requiring greater collaboration information-sharing in this relatively new area. Competency-based medical education “focuses on the skills and progression of learning of an individual, promoting greater learner.

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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