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JUDGMENTS

New South Wales (NSW)

12 October 2015 - *Klewer v Sydney Children's Hospital Specialty Network* [2015] NSWSC 1493

The Supreme Court of New South Wales has made orders discharging a plaintiff's brother from acting as his tutor in a claim against the Sydney Children's Hospital Specialty Network. In the absence of an appropriate replacement, the Court further ordered a stay of the proceedings, which have been on foot since 2009.

The Court accepted Ryan Klewer's reasons for wishing to be discharged, referring to the geographical difficulties posed by Ryan's residence in a different state, and the degree of family discord caused by his role. The plaintiff's mother is barred from acting as his tutor since being declared a vexatious litigant in 2010. The Court held that the plaintiff lacks the capacity to act on his own behalf.

The Court's findings lay bare a somewhat difficult result for the plaintiff; without a tutor, the plaintiff is prevented from pursuing his claim for the defendant's alleged negligence. As Justice Wilson pointed out, '[whether] the matter can ultimately proceed will depend upon the plaintiff's willingness to permit the NSW Trustee and Guardian to act as tutor'. This option is opposed by the plaintiff.

15 October 2015 - *BZX v Western Sydney Local Health District* [2015] NSWCATAD 210

The Civil and Administrative Tribunal of New South Wales has held that the Western Sydney Local Health District (the Health District) did not contravene Health Privacy Principles 10 and 11 of the *Health Records and Information Privacy Act 2002* in circumstances where a nurse employee gained unauthorised access to the applicants' health information.

The applicants, were family members and one was the nurse employee's ex-wife. They contended that the Health District contravened Health Privacy Principles limiting the use and disclosure of health information after the nurse employee allegedly accessed and disclosed the applicants' health information to the Child Support Agency and Family Court in proceedings between the nurse employee and his ex-wife.

The Tribunal accepted the Health District's primary submission that the nurse employee's conduct did not constitute contravention by the agency because the nurse employee acted contrary to the Health District's policy and for his own private purposes. The Tribunal further noted that the nurse employee disclosed the information for purposes extraneous to the agency. In these circumstances, the Tribunal held that the employee's conduct could not be attributed to the Health District.

15 October 2015 - *Macquarie International Health Clinic Pty Ltd v Sydney South West Area Health Service* [2015] NSWCA 323

PROCEDURE – application to discharge stay order made by Court of Appeal – whether discharge of stay order should be deferred for a short period of time.

16 October 2015 - *Green v Healthscope Limited t/as The Hills Private Hospital* [2015] NSWCA 325

PROCEDURE – dismissal of proceedings for want of prosecution – application for leave to appeal – where applicant under legal incapacity – where delay in appointing tutor – where concurrent hearing vacated – where further delay in appointment tutor.

15 October 2015 - *DLW Health Services Pty Ltd and Secretary, Department of Social Services* [2015] AATA 796

AGED CARE – care provided to residents by overseas qualified physiotherapist under supervision of physiotherapist registered in Australia - classification levels of residents – delegate's decision based on notes in ACFI 12 relating to complex health care for care to be provided by an allied health professional – whether notes are within power – outside of power – assessment by reference to care recipient's needs not by reference to how what is needed is being delivered or provided; LEGAL PRINCIPLES – whether Tribunal can consider lawfulness of delegated legislation.

Commonwealth. Fair Work Commission

9 October 2015 - [Santosheema Pty Ltd T/A Cardiac Care Centre v Marianne Alexander \[2015\] FWCFB 6944](#)

Appeal against decision of Deputy President Gooley at Melbourne on 13 April 2015 in matter number U2014/16217 – Permission to appeal – Whether grounds of appeal attract public interest – Permission to appeal not granted – Fair Work Act 2009 – ss. 394, 400 and 604.

Victoria

8 October 2015 - [Inquiry into the death of Bruce Desmond Andrews](#) - Finding Without Inquest into the Death of Bruce Desmond Andrews.

8 October 2015 - [Inquest into the Death of Edna May Pullen](#) - Finding of Inquest into the death of Edna May Pullen.

LEGISLATION

Commonwealth

16 October 2015 - [Health Insurance \(Midwife and Nurse Practitioner\) Determination 2015](#).

Victoria

13 October 2015 - [Safe Patient Care \(Nurse to Patient and Midwife to Patient Ratios\) Bill 2015](#).

9 October 2015 - [Public Health and Wellbeing Amendment \(No Jab, No Play\) Bill 2015](#).

Western Australia (WA)

15 October 2015 - [Mental Health Amendment Bill 2015](#) - Introduced and first and second readings.

14 October 2015 - [Hospitals \(Services Charges for the Supply of Surgically Implanted Prostheses\) Amendment Determination \(No. 2\) 2015](#).

13 October 2015 - [Hospitals \(Services Charges for the Supply of Surgically Implanted Prostheses\) Amendment Determination \(No. 2\) 2015](#).

REPORTS

Australia. Department of Health

Media releases

13 October 2015 - [Health Star Rating success as Uncle Toby's improves recipes](#) - News that Uncle Toby's has made its recipes healthier to receive a better Health Star Rating has been welcomed by Minister for Rural Health Fiona Nash.

12 October 2015 - [\\$10 million advertising campaign to reduce Indigenous smoking rates](#) - Some \$10 million from the National Tobacco Campaign will target Aboriginal and Torres Strait Islander communities with a new anti-smoking advertising campaign.

12 October 2015 - [Minister welcomes Kellogg's healthy change as Health Star Ratings power ahead](#) - Minister for Rural Health Fiona Nash has welcomed news Kellogg's has changed the recipe of one of its biggest-selling cereals and will now receive a better Health Star Rating.

9 October 2015 - [Developing a 21st century electronic health record system](#) - Minister for Health Sussan Ley has announced the Committee that will oversee the rebooted personalised My Health Record system for patients and doctors.

Private Health Insurance Circulars

14 October 2015 - [PHI 69/15 New Private Hospital Information](#).

13 October 2015 - [PHI 68/15 Prostheses List Management System](#).

Consultations

8 October 2015 - [Biosimilar Awareness Implementation Framework](#).

27 September 2015 - [Medicare Benefits Schedule Review Taskforce Consultation](#).

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

14 October 2015 - [Call for applications](#) - Call for applications for appointment to the list of approved persons for appointment to panels for the Nursing and Midwifery Board of Australia, and the Victorian Board of the Nursing and Midwifery Board of Australia (NMBA).

09 October 2015 - [Nursing and Midwifery Board and AHPRA take action against 'fake' nurse](#) - On behalf of the NMBA, AHPRA is prosecuting a woman who allegedly pretended to be an enrolled nurse and allegedly provided nursing care to patients in an aged care facility in Werribee, Victoria.

Australia. National Health & Medical Research Council (NHMRC)

1 October 2015 - [New Australian partnership with United States to advance brain research](#).

Australia. Therapeutic Goods Administration (TGA)

16 October 2015 - [TGA and industry presentations - Devices Sponsor Information Day, October 2015](#) - Presentations by TGA and Industry (combined) to help sponsors and manufacturers better understand the regulation of medical devices and in-vitro diagnostic medical devices.

15 October 2015 - [Australian Influenza Vaccine Committee \(AIVC\)](#) - AIVC meeting date for 2016 now available.

15 October 2015 - [AIVC recommendations for the composition of influenza vaccine for Australia in 2016](#) - The AIVC recommendation for the composition of the influenza vaccines for 2016.

14 October 2015 - [Prism Medical P300 and C300 ceiling hoist](#) - Recall - potential for user injury as a result of device breakage.

13 October 2015 - [Clinical trials - migration of Clinical Trial Notifications \(CTNs\) from paper-based database to new online system](#) - Migration of Clinical Trial Notifications from paper-based database to new online system.

13 October 2015 - [Consultations on adoption of European Union guidelines in Australia: Outcome of previous consultation](#) - EU/ICH guidelines adopted by the TGA following consultation within the TGA and with relevant external stakeholders.

13 October 2015 - [Duracon augments tibial wedge implants - used in knee replacements](#) - Hazard alert - potential for post-operative infection.

12 October 2015 - [Shuttle Discovery Seat](#) - Recall for product correction – potential for user injury.

1 October 2015 - [Medicines Safety Update, Volume 6, Number 5, October 2015](#) - Ustekinumab; sodium glucose co-transporter 2 inhibitors and diabetic ketoacidosis; and registering to report adverse events online.

Australian Institute of Health & Welfare (AIHW)

15 October 2015 - [Elective surgery waiting times 2014–15: Australian hospital statistics](#).

15 October 2015 - [Media release: Improvements seen in elective surgery waiting times](#).

16 October 2015 - [Prevalence of type 1 diabetes among children aged 0–14 in Australia 2013](#).

14 October 2015 - [National framework for protecting Australia's children: dynamic data display media release: New data display helps track safety and wellbeing of Australia's children and young people](#).

Australian Commission on Safety and Quality in Health Care

12 October 2015 - On the Radar – Issue 244 ([PDF 277KB](#)) ([Word 294KB](#)).

Australia. National Mental Health Commission

10 October 2015 - [World Mental Health Day](#).

New South Wales (NSW). Ministry of Health

Policy Directives & Guidelines

14 October 2015 - [Nurse Administered Thrombolysis \(NAT\) Protocol for ST Elevation Myocardial Infarction \(STEMI\)](#).

13 October 2015 - [Risk Management - Enterprise-Wide Risk Management Policy and Framework - NSW Health](#).

Information Bulletins

New South Wales (NSW). Bureau of Health Information

13 October 2015 - [First results of NSW Outpatient Survey released today](#)

BHI has today released the first results of the NSW Outpatient Survey which looks at the experiences of more than 18,000 patients who received outpatient services in a NSW public hospital in February or March 2014.

This is the first time information has been available about patients' experiences of care across nine different types of outpatient services, including oncology and chemotherapy, gynaecology and obstetrics, and orthopaedic surgery.

Northern Territory (NT). Department of Health

9 October 2015 - [October rain signals start of melioidosis season](#) - As the wet season begins, Top End residents and visitors are once again reminded to protect themselves from the potentially deadly soil-borne disease melioidosis.

Western Australia (WA). Department of Health

Media Releases

13 October 2015 - [Health report reveals stroke of improvement](#) - Western Australians are taking important measures that are known to reduce the risk of stroke.

13 October 2015 - [Minister for Mental Health and Minister for Mines and Petroleum: Government provides response to FIFO report](#) - The State Government has responded to the findings of a Parliamentary report into the impact of fly in, fly out (FIFO) on the mental health of workers in the resources industry.

12 October 2015 - [WA hospitals continue to improve on quality surgical care](#) - Western Australian patients continue to receive a high standard of surgical care, according to the latest WA Audit of Surgical Mortality (WAASM) report.

10 October 2015 - [Minister for Mental Health: Lotterywest grants for peak mental health body](#) - Mental Health Minister Helen Morton will tonight mark the end of Mental Health Week by presenting two Lotterywest grants, totalling more than \$44,000, to the Western Australian Association for Mental Health (WAAMH).

9 October 2015 - [Minister for Health: \\$4 million means bright future for child research](#) - Telethon and the State Government have today awarded a record \$4 million in grants to 15 research projects for child and adolescent health.

Operational Directives (OD)

15 October 2015 - [IC 0228/15](#) - Intellectual Property Management in WA Health.

The Circular informs WA Health staff of the State government's intellectual property (IP) policy and specific IP management and reporting procedures in WA Health.

New Zealand (NZ). Ministry of Health

16 October 2015 - **Living Well with Diabetes** - A health care plan for people at high risk of or living with diabetes 2015–2020, aims to address the needs of people with a high risk of developing diabetes, including those with pre-diabetes and existing diabetes.

15 October 2015 - **DHB Māori Health Profiles** - The DHB Māori Health Profiles present an analysis of Māori health compared with non-Māori, across a range of health related indicators and provide reliable and accessible district information across all DHBs.

15 October 2015 - **National Health Emergency Plan- A framework for the health and disability sector** - The National Health Emergency Plan provides the health and disability sector's strategic framework for emergency management and describes roles and responsibilities across the '4R's of risk reduction, readiness, response and recovery.

13 October 2015 - **Primary care in advanced age: Findings from LiLACS NZ** - This short report presents findings from the Life and Living in Advanced Age Cohort Study (LiLACS NZ) about primary health care for Māori (aged 80–90 years) and non-Māori (aged 85 years).

12 October 2015 - **Draft Pharmacy Action Plan 2015–2020** - The draft action plan will provide the foundation for developing pharmacy services within an integrated health and disability system.

Australian Medical Association (AuMA)

15 October 2015 - **AMA Position Statement on Aboriginal and Torres Strait Islander Health 2015** - The updated Position Statement emphasises social determinants of health, and their importance in reducing health inequality.

15 October 2015 - **AMA calls for expanded specialist training program** - The AMA is calling for a significant expansion of the Commonwealth Government's Specialist Training Program (STP), which provides funding to support specialist training posts in non-traditional settings such as the private sector.

5 October 2015 - **AMA rejects Government plan to link GP incentive payments to the MyHealth Record** - In a submission to the Department of Health, the AMA has rejected a Government plan to link general practice Practice Incentive Program (PIP) e-Health Incentive payments to the adoption of the MyHealth Record (MyHR) by GPs.

11 October 2015 - **'Release children from detention' – AMA backs stance of Melbourne RCH doctors** - The AMA supports the principled and ethical stance taken by Royal Children's Hospital (RCH) Melbourne doctors in raising concerns about the physical and mental health of children in immigration detention centres, and will call on Prime Minister Malcolm Turnbull to intervene with a compassionate and humane solution.

British Medical Association (BMA)

13 October 2015 - **High tax rate on sugar proposal** - A 20 per cent tax on sugary drinks is a vital to curb obesity in the UK, the BMA told MPs today.

American Medical Association (AMA)

12 October 2015 - **AMA & MGMA Salute Top Physician Practice Innovation Proposals** - Out-of-the-box thinkers recognized as the AMA adds 10 'NEW' modules to its STEPS Forward transformation series aimed at addressing today's practice challenges.

8 October 2015 - **AMA Coding Workgroup to Accelerate Integration of Emerging Telehealth Services into Clinical Practice** - The American Medical Association (AMA) today took a significant step toward its goal of accelerating digital medicine into clinic practice with the foundational meeting of an AMA-sponsored workgroup charged with facilitating the integration of the latest technological advances in telehealth services into the Current Procedural Terminology (CPT®) code set.

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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