



HEALTH ALERT

24 FEBRUARY 2014

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JUDGMENTS

Victoria

18 February 2014 - [Odisho v Bonazzi \[2014\] VSCA 11](#)

In April 2006, Ms Odisho attended hospital after suffering pulmonary emboli. She issued proceedings against Dr Bonazzi who had prescribed tranexamic acid to treat her abnormally heavy bleeding. She alleged her pulmonary emboli were caused by Dr Bonazzi's negligence in failing to provide appropriate warning about the side effects. Thromboembolic events are a rare side effect of tranexamic acid (less than one in one thousand). Ms Odisho was unsuccessful, and appealed.

Justices Beach and McMillan cited a doctor's duty to warn of material risks inherent in proposed treatment, noting "a risk is material if, in the circumstances ... a reasonable person in the patient's position, if warned of the risk, would be likely to attach significance to it" (*Rogers v Whitaker*). While the evidence revealed Ms Odisho was an anxious patient, her anxiety related to her symptoms. The Court held the evidence did not disclose circumstances which should reasonably have made Dr Bonazzi aware that if warned of the risk of thromboembolism, Ms Odisho would likely have attached significance to it.

The Court determined that nothing in the evidence led to the conclusion that, as a matter of probability, the tranexamic acid was a cause of the pulmonary emboli. Further, the Court held that while there were four possible courses of treatment for Ms Odisho's condition, three of them were not viable options. Their Honours were unpersuaded that had Ms Odisho been given a warning of the rare risk of thromboembolism, the warning would have made any difference,

The appeal was dismissed.

12 February 2014 - [Inquest into the death of Kenneth James Morrison](#)

Death from pneumonia with contributing factors of general debility, Down's Syndrome, dementia, recurrent urinary tract infections and bowel obstruction.

South Australia

14 February 2014 - [Inquest into the deaths of John William Ryan and Patricia Dawn Walton 27/2012](#)

The deaths in this Inquest were two years apart but their circumstances raised similar issues about admission practices of small hospitals for higher risk patients. Both had a number of significant co-morbidities, including morbid obesity, and underwent orthopaedic procedures at a small private hospital with no on-site medical practitioners overnight. Both deteriorated overnight post-surgery. By the time nursing staff reacted, the situation was "catastrophic."

Mr Ryan died from hypoxic-ischaemic encephalopathy following ventilatory failure and cardiac arrest in the context of morbid obesity and opiate medication. The Coroner determined his death could have been avoided had there been more frequent and adequate monitoring during the night.

Ms Walton died from hypoxic-ischaemic encephalopathy following cardiac arrest after developing cardiac syndrome precipitated by myocardial ischaemia. The Coroner concluded she should have had surgery at a hospital with the medical and nursing resources to handle her complex pain requirements and labile hypertension. Her death may have been prevented.

Independent anaesthetists and intensivists gave critical evidence of the hospital's systems and facilities for coping with the predictable and on-going challenges posed by both post-operatively.

The Coroner made a number of recommendations, including that a requirement of accreditation be considered for small hospitals without on-site medical practitioners overnight and Intensive Care Unit (ICU)

backup to develop robust pre-admission processes for higher risk patients. He suggested patients be screened to ensure acceptance for overnight admission only occurred after they were assessed as suitable for that facility by a medical specialist or anaesthetist, well in advance of the planned admission date.

New South Wales (NSW)

20 January 2014 - [*Ambulance Service of NSW v Health Service Union East \[2014\] NSWIRComm 4*](#)

Application for declaratory relief - s 154 of the *Industrial Relations Act 1996* - construction of sub-clause 23(f)(1)(2) of the Operational Ambulance Officers (State) Award 2010 - jurisdiction to grant relief - principles of award construction - analysis of evidence - orders.

Northern Territory

13 February 2014 - [*Inquest into the death of Peter Alexander Clarke \(Senior\) \[2014\] NTMC 04.*](#)

Death in Custody, serving prisoner, terminal illness, care and treatment thereof.

United Kingdom

14 February 2014 - [*Webley v St George's Hospital National Health Service \(NHS\) Trust \[2014\] EWHC 299 \(QB\)*](#)

The Claimant is a protected party for the purposes of this litigation, acting through his son and litigation friend, Karl Webley. He brings a claim for damages for the very serious head injuries sustained by him as a result of the alleged negligence of the Defendants, St George's Hospital NHS Trust ("the Trust") and the Metropolitan Police ("the police").

LEGISLATION

Commonwealth

12 February 2014 - [*National Health Determination under paragraph 98C\(1\)\(b\) Amendment 2014 \(No. 2\).*](#)

12 February 2014 - [*National Health \(Listing of Pharmaceutical Benefits\) Amendment Instrument 2014 \(No. 2\).*](#)

Victoria

18 February 2014 - [*Mental Health Bill 2014.*](#)

Northern Territory

19 February 2014 - [*Health Practitioner Regulation \(National Uniform Legislation\) Amendment Bill 2014.*](#)

19 February 2014 - [*Medicines, Poisons and Therapeutic Goods Amendment Bill 2014.*](#)

19 February 2014 - [*Mental Health and Related Services Amendment Bill 2013.*](#)

REPORTS

Australia. Department of Health & Ageing

Media releases

20 February 2014 - [*More Doctors in regional areas*](#)

19 February 2014 - [*Address to CEDA conference.*](#)

Private Health insurance (PHI) Circulars

14 February 2014 - [*PHI 12/14 Private Health Insurance Rebate Weighted Average Ratio From 1 April 2014.*](#)

Australia. Health Practitioner Regulation Agency and the boards

14 February 2014 - Have your say: Focus groups on Registration standard for eligible midwives Eligible midwives, and midwives interested in achieving notation and endorsement, are invited to attend focus groups on Registration standard for eligible midwives. [Read More](#).

17 February 2014 - Revised advertising guidelines set down National Board expectations of health practitioners. [Read More](#).

19 February 2014 - The National Nursing & Midwifery Board has released its quarterly registration data. [Read More](#).

19 February 2014 - The National Board has released its quarterly registration data. [Read More](#).

20 February 2014 - The National Board has released its quarterly registration data. [Read More](#).

Australia. National Health & Medical Research Council (NHMRC)

18 February 2014 - [\\$133 million boost for medical research](#). The Australian Government today announced \$133 million in funding to help Australian researchers find new health treatments and cures. Minister for Health Peter Dutton said the new funding will support 153 grants across five National Health and Medical Research Council (NHMRC) schemes. The grants will address broad areas of research, from infections in cancer patients to building immunity to childhood eczema and allergies. They include postgraduate scholarships and a Targeted Call for Research. [See full media release](#).

21 February 2014 - [NHMRC research tracker](#).

Australia. Therapeutic Goods Administration (TGA)

19 February 2014 - [Peristeen anal irrigation system](#). Consumers and health professionals are advised that Coloplast has undertaken a recall for product correction for its Peristeen anal irrigation system.

19 February 2014 - [Medicines with soft gel capsules marketed for children](#). Consumers and health professionals are advised that medicines that come in the form of soft gel capsules may pose a choking risk for children, especially those aged under five years.

18 February 2014 - [Reclassification of hip, knee and shoulder implants reclassification: Cancellation of Class IIb and transition of Prostheses List entries](#). Letter emailed to individual sponsors identified as having hip, knee and shoulder joint implants with GMDN codes that will be cancelled from the ARTG at 1 July 2014.

19 February 2014 - [Marketing complementary medicines with soft gel capsules for children](#). In response to a consumer query, the TGA has investigated potential safety issues with complementary medicines with soft gel capsule dosage forms in children.

18 February 2014 - [Advisory Committee on the Safety of Medical Devices \(ACSMD\)](#). Added nine members.

18 February 2014 - [Australian Public Assessment Reports for prescription medicines \(AusPARs\)](#). Added Mirabegron (Betmiga), Pneumococcal polysaccharide conjugate vaccine (Prevenar 13) and Regorafenib (Stivarga).

18 February 2014 - [Lian Zhan Qi Tian capsules](#) pose a serious risk to your health and should not be taken.

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

14 February 2014 - [Consultations on adoption of European Union guidelines in Australia](#). Added 11 guidelines proposed for adoption by TGA.

14 February 2014 - [Macular Health with Saffron - Orielson Laboratories Pty Ltd](#). Decision under regulation 9 of the *Therapeutic Goods Regulations 1990* in relation to an advertisement about the product 'Macular Health with Saffron.'

14 February 2014 - [Medical devices and in vitro diagnostic \(IVDs\) compliance actions](#). Details of products cancelled from the ARTG.

Australian Institute of Health & Welfare

19 February 2014 - [Type 2 diabetes in Australia's children and young people: a working paper.](#)

Australian Commission on Safety and Quality in Health Care

17 February 2014 - [On the Radar – Issue 162 \(100KB\).](#)

Australia. Private Health Insurance Administration Council

20 February 2014 - [Statistical Release – Trends.](#)

Australian Capital Territory (ACT). Health Directorate

20 February 2014 - [Healthy Canberra Grants take aim at obesity.](#)

13 February 2014 - [Report into Naloxone Program saving lives.](#)

New South Wales (NSW). Ministry of Health

Media Releases

19 February 2014 - [Minister Officially Opens Breastscreen NSW Centre at Hornsby Ku-ring-gai hospital.](#)

Information Bulletins

19 February 2014 - [National Health and Medical Research Council Research Staff Salary Rates 1 January 2014.](#)

20 February 2014 - [United Hospital Auxiliaries of NSW - Subsidy to Delegates Attending the Annual General Conference.](#)

Northern Territory (NT). Department of Health

18 February 2014 - [Robyn Lambley - Private midwives provide choice for territory mothers.](#) The Country Liberals Government will tomorrow introduce amendments to allow private midwives to assist Territory mothers through their pregnancy, whether at home or in a public or private hospital.

18 February 2014 - [Robyn Lambley - safe and easy access to vaccinations for territorians.](#) The Country Liberals Government will tomorrow introduce legislation to provide safe and easy access for Territorians to medicines, including vaccines.

17 February 2014 - [Robyn Lambley - NT's first advisory council announced for disability reform.](#) The first members of the Northern Territory's inaugural ministerial advisory committee have been announced to help drive major reform for all Territorians with a disability, their families and carers.

Queensland. Department of Health

16 February 2014 - [New Nurse Levy condemned by Health Minister.](#) The Newman Government has condemned bosses at the Queensland Nurses Union for skimming \$52 per annum out of the pay packets of nurses and midwives without their consent, to fund politically motivated rallies.

18 February 2014 - [Secret Labor plan for sale of Royal Children's Hospital at Herston.](#) A report detailing plans to sell the Royal Children's Hospital site at Herston was kept secret by the former Labor Government as it planned an auction of health assets to follow its sales of state-owned rail, motorways and forestry.

South Australia. Department for Health & Ageing

14 February 2014 - HealthInSA Board announced Six high-profile business leaders have been appointed to South Australia's first *HealthInSA* Advisory Board. [Read more.](#)

Tasmania. Department of Health & Human Services (HHS)

17 February 2014 - [\\$6 million investment in Flinders Island centre.](#)

17 February 2014 - [Protecting the rights of people with serious mental illness.](#)

Victoria. Department of Health

20 February 2014 - [Victoria leads the way with organ donation result.](#)

20 February 2014 - [Minister visits Latrobe Valley respite centre.](#)

20 February 2014 - [Health assessment centre to open in Morwell.](#)

14 February 2014 - [Work starts on new Bannockburn ambulance branch.](#)

20 November 2014 - [Vein specialists to descend on Melbourne in 2017.](#)

20 February 2014 - [New Mental Health Act puts people at the centre.](#)

Western Australia (WA). Department of Health

Media Releases

18 February 2014 - [Funding boost for Home and Community Care.](#)

10 February 2014 - [WA Health Performance Report – October to December 2013 Quarter..](#)

Operational Directives (OD)

21 February 2014 - [OD 0503/14](#). The aim of this Operational Directive is to inform Health Services of the commencement of a metropolitan centralised referral allocation system, commencing with outpatient services.

20 February 2014 - [OD 0501/14](#) This policy is intended for use by all clinicians working within Western Australian Department of Health Services (WACHS) and applies to all in-patients within WA Health acute care facilities having an acute or subacute (or residential in WACHS) episode of care. It provides the minimum requirements to ensure that clinical deterioration is recognised and acted upon promptly.

20 February 2014 - [OD 0500/14](#). Use of macerator machines for the disposal of human waste in Western Australian Healthcare facilities.

New Zealand. Ministry of Health

19 February 2014 - [Psychoactive Substances Regulations: A consultation document.](#)

19 February 2014 - [Consultation opens on regulations.](#)

18 February 2014 - [Admissions to New Zealand public hospitals for dental care: A 20-year review.](#)

United Kingdom. Department of Health (DoH)

18 February 2014 - [Mental health crisis care agreement.](#)

18 February 2014 - [Honours: celebrating contributions to health and care.](#)

14 February 2014 - [Rescare's campaign on funding for social care services: DoH response.](#)

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

20 February 2014 - [HHS selects winners in idea challenge for emergency response.](#)

Australian Medical Association (AuMA)

21 February 2014 - [ACT Government goes in hard on sugary soft drinks.](#) The AuMA welcomes the ACT Government's decision to ban the sale of fruit juice and soft drinks in Canberra public schools. [Read more.](#)

20 February 2014 - [AuMA welcomes NSW Government support for national alcohol summit.](#) The AuMA warmly welcomes the support of NSW Premier Barry O'Farrell and the NSW Government for a National Summit on alcohol abuse and alcohol-related harms. [Read more.](#)

20 February 2014 - [AuMA President, Dr Steve Hambleton, Sky News.](#) GP co-payments, food label website, alcohol summit. [Read more.](#)

20 February 2014 - [Healthcare access at risk unless Government invests in general practice training.](#) Healthcare access at risk unless Government invests in general practice training. [Read more.](#)

18 February 2014 - [Urgent fix needed for flawed classification system, doctor groups warn Government](#). The Australian Medical Association (AuMA) and Rural Doctors Association of Australia (RDAA) are jointly calling on the Federal Government to urgently replace the Australian Standard Geographic Classification. [Read more](#).

14 February 2014 - [AuMA President Dr Steve Hambleton, Doorstop, AuMA public hospital report card and Queensland hospital contracts](#). [Read more](#).

British Medical Association (BMA)

21 February 2014 - [Dicing with death: doctors in war zones](#). Would you paint a red cross on an ambulance knowing it would attract bullets and bombs as well as mercy?

19 February 2014 - [Doctors' concerns prompt data sharing plan delay](#). The BMA has welcomed plans to delay extended patient data sharing in light of doctors' concerns about a lack of public awareness.

19 February 2014 - [Medical academics call for clarity on research](#). Medical academics support NHS England's vision for research and development, but want to know how doctors' research time will be protected and given sufficient priority.

19 February 2014 - [BMA opposes reorganisation of general practice](#). General practice needs better support to develop rather than a wholesale reorganisation, the BMA said in response to a report published today.

18 February 2014 - [General Practitioners \(GPs\) condemn budget penalties](#). GPs are being financially punished for doing their jobs, the BMA Welsh local medical committees conference in Newport has heard.

18 February 2014 - [Don't drop cost of alcohol, doctors urge chancellor](#). Doctors are pressing chancellor George Osborne not to drop the price of drink in this year's budget.

17 February 2014 - [Call to boost public awareness of data sharing](#). The BMA has urged the government to increase public awareness of the implications of patient data sharing.

Canadian Medical Association (CMA)

19 February 2014 - [CMA forums on end-of-life care: "If we don't start this discussion, who will?"](#)

17 February 2014 - [CMA wants "momentum turned into action" on prescription drug abuse](#).

American Medical Association (AMA)

20 February 2014 - [Data breaches multiply—CME activity shows how to avoid risks](#). The number of instances in which physicians and other providers' electronic health records (EHR) experienced a breach last year jumped nearly 138 percent to more than 7 million records, according to IT security firm Redspin's annual breach report.

20 February 2014 - [AMA pushes To break sustainable growth rate \(SGR\) status quo on anniversary of first patch](#). Today marks the anniversary of the first legislative 'patch' to Medicare's fatally-flawed physician payment formula known as the sustainable growth rate (SGR).

19 February 2014 - [Program moves hypertension screening over the comprehensive unit based programme \(CUSP\)](#). Checklists—like the ones used to reduce central-line infections - can help physician practices improve outcomes for hypertension, one of America's most common and dangerous conditions. But even for those committed to improving patient safety and health care quality, checklists alone won't sustain positive changes without a shift in attitudes and beliefs.

ABOUT US

Mark Williams



Mark is a partner in the Litigation and Regulatory team at DLA Piper.

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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