



HEALTH ALERT

14 APRIL 2014

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JUDGMENTS

Victoria

7 April 2014 - [Finding Without Inquest - Into the death of Kirk Steven Arden.](#)

This was a finding without Inquest into the death of Kirk Steven Arden in the Coroner's Court of Victoria. The deceased had a long history of illegal substance abuse. The deceased had recently been paroled from prison and was undergoing opioid replacement therapy in which he received takeaway methadone doses. There was evidence the deceased had been engaged in prescription shopping for various prescription medications. The cause of death was multiple drug toxicity, including heroin, methadone, diazepam and mirtazapine

The Coroner made numerous recommendations connected with the death. The Coroner recommended that the clinical decision by the doctor to give the deceased access to five takeaway methadone doses per week, just two days after the deceased left prison should be referred for critical evaluation as it may have been inappropriate.

The Coroner recommended the Victorian Policy for *Maintenance Pharmacotherapy for Opioid Dependence* be amended to include explicit advice on managing vulnerable patients, including those recently paroled from prison. This should indicate that a client transferred from prison to a community-based service should be treated as a new patient and should not be provided takeaway doses until medical, psychological and social stability is established.

The Coroner recommended the Victorian Department of Health explore options for implementing a Victorian-based real-time prescription monitoring system to prevent on-going harm and deaths associated with pharmaceutical drug misuse and inappropriate prescription. The Coroner finally recommended that the department should make up to date information on the implementation of real-time prescription publically available on its website.

8 April 2014 - [Finding - Inquest into the Death of Thomas Freemantle.](#)

This was an Inquest into the death of an infant. The cause of death was severe hypoxic ischaemic encephalopathy. The infant died after being born during a home birth. Medical practitioners had previously advised that a hospital birth was the safest option because of an enhanced risk of Cephalo Pelvic Disproportion and shoulder dystocia. The Coroner commented that the case highlighted the need for women planning a home birth to undergo a comprehensive risk assessment articulating agreed home birth practice and contingency plan in the event of emergency.

South Australia

4 April 2014 - [Molloy v El Masri \[2014\] SADC 53](#)

The plaintiff gave birth to a child with Down syndrome at age 48. Six months earlier she had consulted the defendant complaining of vaginal bleeding, amongst other things. The defendant failed to diagnose her as pregnant. The plaintiff did not confirm her pregnancy until 33 weeks, at which time she had no option but to carry the pregnancy to term. The plaintiff alleged that had she known she was pregnant earlier, she would have exercised the option to terminate the pregnancy.

The plaintiff argued the defendant was negligent in failing to undertake a pregnancy test to exclude pregnancy as the cause of the vaginal bleeding. The defendant denied she was negligent, asserting she acted in a manner which was widely accepted as competent professional practice. She further argued that the plaintiff was guilty of contributory negligence as she failed to mention she had not had a menstrual period and failed to seek treatment and advice after symptoms persisted.

The District Court of South Australia found the defendant breached her duty of care by failing to take a more detailed medical history, to consider the possibility of pregnancy and to arrange a follow up appointment.

The Court made no finding of contributory negligence as the plaintiff had no reason to believe she was pregnant and even if she did, failing to make an appointment should not be regarded as contributing to her own loss.

This decision was only in relation to liability and no finding as to damages was made.

New South Wales

18 March 2014 - *Brendan Hobson v Northern Sydney Local Health District* [2014] NSWSC 375

Torts - negligence, the plaintiff seeks discovery and some other interlocutory orders. The orders are opposed. The plaintiff sues in medical negligence. The plaintiff suffers paraplegia following an operation on 17 November 2009. The substantive dispute arises from the plaintiff suffering paraplegia, during or immediately after a second spinal operation. The plaintiff suffered Noonan's Syndrome and presented with progressive scoliosis and with dyspnoea on exertion.

4 April 2014 - *Health Care Complaints Commission v Fraser* [2014] NSWCATOD 29

Complaint - Where it is asserted that practitioner knew or was recklessly indifferent to the fact that former medical practitioner was not registered at the time of administration of alternative cancer therapy known as Insulin Potentiation Therapy ("IPT") or that she administered intravenous vitamin therapy without the order of a registered medical practitioner. Whether practitioner's conduct in administering IPT or intravenous vitamin therapy demonstrated care exercised by practitioner is significantly below the standard reasonably expected of practitioner of her experience, and/or whether practitioner engaged in unethical and improper conduct. Whether practitioner was engaged in procuring and supply of chemotherapy drugs without appropriate authorisation. Whether conduct constitutes unsatisfactory professional conduct and or professional misconduct. Held - the complaints are proved.

7 April 2014 - *Health Care Complaints Commission v Howe* [2014] NSWCATOD 30

Complaint- The practitioner has physical and mental impairments and conditions, namely Parkinson's disease with mild cognitive impairment, hearing loss and monocular vision that detrimentally affect or are likely to detrimentally affect the practitioner's capacity to practise the profession; Is not competent to practise the medical profession under section 139 of the National law as the practitioner does not have sufficient physical and mental capacity to practise the profession.

United Kingdom

4 April 2014 - *Gillian Levett v The Health and Care Professions Council* [2014] EWHC 994

The Registrant, Gillian Levett, a chartered psychologist, appeals the decision of the Health and Care Professionals Council and Conduct and Competence Committee dated 1st November 2013, whereby her fitness to practise was found impaired and the Panel directed that her name be struck off the HCPC register of practitioner psychologists. The Panel also imposed an interim suspension order on the Registrant for 18 months, to cover any appeal notice period or appeal period.

8 April 2014 - *Whetstone (Trading As Whelby House Dental Practice) v Medical Protection Society Limited (Sued As Dental Protection Limited)* [2014] EWHC 1024 (QB)

The claimant in action HQ12X00737, who was also the first defendant in action HQ13X03579 is usually known as Mark Whetstone. He is a dentist and practises as such under the name "Whelby House Dental Practice" from premises at 33, London Road, Old Harlow, Essex. For many years, since, I think, 1987, Mr. Whetstone has been, and he remains, a member of Medical Protection Society Ltd ("MPS"). MPS was sued in both actions under the name Dental Protection Ltd. ("DPL"). DPL is a wholly-owned subsidiary of MPS, but its only role, as I understand it, is to promote to dentists the benefits of membership of MPS.

LEGISLATION

Commonwealth

24 March 2014 - [Health Insurance \(Pharmacogenetic Testing Kirsten ras \(KRAS\)\) Determination 2014](#).

28 March 2014 - [National Health \(Highly specialised drugs program for hospitals\) Special Arrangement Amendment Instrument 2014 \(No. 3\) \(No. PB 20 of 2014\)](#).

9 April 2014 - [Private Health Insurance \(Complying Product\) Amendment Rules 2014 \(No. 4\)](#).

7 April 2014 - [Private Health Insurance \(Complying Product\) Amendment Rules 2014 \(No. 3\)](#).

9 April 2014 - [National Health \(Listing of Pharmaceutical Benefits\) Amendment Instrument 2014 \(No. 4\) \(No. PB 27 of 2014\)](#).

Queensland

[Hospital and Health Boards Amendment Bill 2014](#)

REPORTS

Australia. Department of Health & Ageing

Media releases

8 April [Victoria Leads the Nation in treating Type 1 Diabetes](#) Victoria is home to a new centre that will deliver a revolutionary medical treatment to people across Australia suffering from life-threatening Type 1 diabetes.

8 April 2014 - [Better Training Available for Rural WA Health Professionals](#). Health professionals and students in rural and remote Western Australia are set to receive better training opportunities with the opening of a simulation training and education (EdSIM) centre in Geraldton.

8 April 2014 - [Salt in Fast Food Down But More Work to be Done](#) Assistant Minister for Health Fiona Nash welcomed research showing that levels of salt in fast food are slowly but surely reducing.

9 April 2014 - [Review of Life Saving Drugs Programme](#). The Australian Government will review the Life Saving Drugs Programme - a move aimed at ensuring that Australians with very rare conditions continue to have subsidised access to much-needed, expensive medicines.

Private Health insurance Circulars (PHI)

10 April 2014 - [PHI 21/14 Hospital Information](#).

4 April 2014 - [PHI 20/14 Hospital Information](#).

Australia. Health Practitioner Regulation Agency and the boards

7 April 2014 - Call for applications for health practitioners to join the Medical Board of Australia's list of approved persons for appointment to panels. [Read More](#).

9 April 2014 - The Osteopathy Board releases its latest communiqué. [Read More](#).

9 April 2014 - The Physiotherapy Board of Australia releases its latest communiqué. [Read More](#).

10 April 2014 - The Psychology Board of Australia has released the March 2014 communiqué. [Read More](#).

10 April 2014 - The Chiropractic Board releases its latest communiqué. [Read More](#).

10 April 2014 - The Chinese Medicine Board of Australia releases its latest communiqué. [Read More](#).

10 April 2014 - Medical Board to fund national health services. The Board will fund nationally consistent external health services. [Read More](#).

10 April 2014 - The National Board has published its March communiqué. [Read More](#).

11 April 2014 - The Occupational Therapy Board of Australia invites occupational therapists in Victoria to a free breakfast forum. [Read More](#).

Australia. National Health & Medical Research Council (NHMRC)

9 April 2014 - [NHMRC releases complementary medicine resource and opens public consultation on draft Information Paper on homeopathy](#). Many Australians report that they use complementary medicines (CM) – a recent industry report showed annual revenue from the sale of CM products and therapies totalled \$3.55 billion. To inform discussions on the use of CM products, the National Health and Medical Research Council (NHMRC) today released Talking with your Patients about Complementary Medicine – A Resource for Clinicians. [See full media release](#).

4 April 2014 - [NHMRC Research Tracker - 4 April 2014](#).

Australia. Therapeutic Goods Administration (TGA)

10 April 2014 - [Consultation on low value turnover exemption \(LVT\) scheme](#). The TGA has commenced a policy and operational review of the low value turnover exemption (LVT) scheme.

10 April 2014 - [Australian Public Assessment Reports for prescription medicines \(AusPARs\)](#) Added Ezetimibe and rosuvastatin (as calcium).

10 April 2014 - [Consultation: Review of the low value turnover exemption scheme](#) The TGA is seeking comments from interested parties on the proposed review of the low value turnover exemption scheme. Closing date 23 May 2014.

9 April 2014 - [Advisory Committee on the Safety of Vaccines \(ACSOV\)](#). Meeting dates updated.

9 April 2014 - [Guidance for new registered complementary medicine applications](#). This guideline explains the process for electronic submission of an application for a new registered complementary medicine.

9 April 2014 - [Request to cancel an entry/entries from the Australian Register of Therapeutic Goods \(ARTG\)](#) Updated information and forms.

8 April 2014 - [Upgraded over-the-counter medicines online application system](#). The upgraded system will become available on 9 April 2014.

8 April 2014 - [Important annual charge and LVT deadlines](#) Information for sponsors on important financial dates for 2014.

8 April 2014 - [ARGOM: Guidelines on the pre-market application and evaluation process for OTC medicines](#). Updates have been made to change codes, fees and information regarding S26B certificates.

7 April 2014 - [Documents released under Section 11C of the Freedom of Information Act 1982](#). Added FOI 167-1314 documents.

7 April 2014 - [EMA and Australian regulatory authority strengthen collaboration in the area of orphan medicines](#). The EMA and TGA have agreed to share the full assessment reports related to marketing authorisations of orphan medicines, which are intended to treat rare diseases.

7 April 2014 - [Pink grain herbal slimming capsules](#) pose a serious risk to your health and should not be taken.

7 April 2014 - [Listed medicines evidence package checklists](#). Minor formatting updates to the checklist forms.

7 April 2014 - [Powerful leg-slimming capsules](#) pose a serious risk to your health and should not be taken.

7 April 2014 - [Night fat-burning slimming capsules](#) pose a serious risk to your health and should not be taken.

4 April 2014 - [Hydroxyethyl starch \(Voluven and Volulyte\)](#). Consumers and health professionals are advised that a recent safety review of hydroxyethyl starch has found an increased risk of mortality and the need for dialysis when this medicine is used to treat patients with sepsis.

4 April 2014 - [Hydroxyethyl starch \(Voluven and Volulyte\) and increased risk of mortality](#) The TGA has completed its safety review of hydroxyethyl starch.

Australian Institute of Health & Welfare

9 April 2014 - [Mapping of children and youth indicator reporting frameworks](#).

Australian Commission on Safety and Quality in Health Care

11 April 2014 - [General practice accreditation to benefit from collaborative approach Joint communiqué from the Commission and the Royal Australian College of General Practitioners](#). The Royal Australian College of General Practitioners (RACGP) and the Commission have embarked on a project to develop a governance and reporting framework for general practice accreditation in Australia.

7 April 2014 - On the Radar – Issue 169 ([PDF 103KB](#)) ([Word 182KB](#)).

31 March 2014 - On the Radar – Issue 168 ([PDF 151KB](#)) ([Word 189KB](#)).

Australia. National Mental Health Commission

8 April 2014 - [National Mental Health Core Capabilities](#).

8 April 2014 - [Group selected for the 2014 National Mental Health Leadership Project](#).

Australian Capital Territory (ACT). Health Directorate

7 April 2014 - [Do you have a chronic health condition?](#) This evidence based course is being conducted by ACT Health, for carers and friends of people with chronic conditions.

New South Wales. Ministry of Health

Media Releases

9 April 2014 - [New arbovirus detections prompt health warning to avoid mosquitoes during the school and Easter holidays](#).

7 April 2014 - [\\$750,000 for bioinformatics grants](#).

4 April 2014 - [New equipment to benefit babies at Manning hospital](#).

Information Bulletins

10 April 2014 - [Will Making in Public Health Facilities](#).

Northern Territory (NT). Department of Health

5 April 2014 - [Robyn Lambley - Registrations open for NT's first suicide prevention conference](#). Minister for Health Robyn Lambley is encouraging Territorians to take part in the NT's first Suicide Prevention and Wellbeing Conference.

Queensland. Department of Health

1 April 2014 - [Legislative change to address doctors' concerns](#). The power of the Queensland Health Director General to vary the conditions of senior doctors will be limited by law, if legislative amendments, introduced by Health Minister Lawrence Springborg, are passed by the Queensland Parliament.

3 April 2014 - [Doctors' deal backed by the power of Parliament](#) commitment to protect Senior and Visiting Medical Officers from the previously unfettered power of the Director General of Queensland Health was delivered to doctors by the Queensland Parliament tonight.

8 April 2014 - [Contract and addendum merged in answer to mainstream doctors](#). Individual doctors' contracts will be merged with the contract addendum and re-issued State-wide as part of a clean-up to resolve issues causing friction among doctors.

9 April 2014 - [New mortuary and medical records unit for Townsville](#). The redevelopment of The Townsville Hospital has provided high-level morgue and forensic services and an expanded medical records unit.

10 April 2014 - [Response to new research on treatment of jellyfish stings](#). Queensland Health will work with researchers of new jellyfish study to determine if guidelines need to be changed.

South Australia. Department for Health & Ageing

2 April 2014 - New phase for community foodies Hon Jack Snelling MP. The future of the Community Foodies Program is secure with the State Government contracting Uniting Care Wesley Bowden to manage the program for the next three years.

Victoria. Department of Health

8 April 2014 - [Victoria leads the nation in treating Type 1 diabetes](#). Victoria is home to a new centre that will deliver a revolutionary medical treatment to people across Australia suffering from life-threatening Type 1 diabetes.

8 April 2014 - [Ministers tour Peter Doherty Institute](#). Federal Minister for Health Peter Dutton and Victorian Minister for Health David Davis today toured the new Peter Doherty Institute ahead of its official opening later this year.

8 April 2014 - [Tribute to generous cancer centre project donors](#). Federal Minister for Health Peter Dutton and Victorian Minister for Health David Davis today paid tribute to the generosity of the Ian Potter Foundation for its \$15 million gift to the Victorian Comprehensive Cancer Centre (VCCC) Project.

7 April 2014 - [Union scaremongering on rural aged care](#). Minister for Health and Ageing David Davis today called on the Australian Nursing and Midwifery Federation (ANMF) to apologise for their misleading claims about aged care in Victoria.

Western Australia (WA). Department of Health

Media Releases

1 April 2014 - [Joint media statement - Major boost for health services in regional WA](#).

6 April 2014 - [Health bigger picture now clear for all to see](#).

7 April 2014 - [Regional WA key part of health bigger picture](#).

9 April 2014 - [Government delivers on training reform](#).

10 April 2014 - [State awards \\$8.71 million in health research funds](#).

Operational Directives (OD)

3 April 2014 - [OD 0517/14](#). Sterilisation of pharmaceuticals in sterilising service departments and operating / procedural rooms. Additional processing of pharmaceuticals after manufacture to provide a 'sterile' product by hospital sterilising services is an unacceptable patient safety risk as further sterilisation processes may result in changes or deterioration in the quality of the pharmaceutical and is not to occur in WA HCFs.

3 April 2014 - [IC 0182/14](#). *Dental Officers Industrial Agreement 2013*. Notification that the Dental Officers Industrial Agreement 2013 (the Agreement) was registered by the Western Australian Industrial Relations Commission on 15 January 2014.

2 April 2014 - [OD 0516/14](#). Infection Prevention and Control of Vancomycin-Resistant Enterococci in Western Australian Healthcare Facilities (HCFs) Describes the requirements for the screening and management of VRE in WA HCFs. Incorporates management in residential care facilities.

New Zealand. Ministry of Health

7 April 2014 - [National Telehealth Service development](#).

8 April 2014 - [New Zealand disaster medicine specialist deployed to Solomons](#).

11 April [Tightening of drug utensil regulation](#).

United Kingdom. Department of Health (DH)

- 10 April 2014 - [Department of Health Improvement Plan: April 2014](#). Corporate report part of a collection: [Departmental Improvement Plans](#).
- 10 April 2014 - [The Department of Health's agencies and partner organisations](#).
- 10 April 2014 - [Department of Health prompt payment of suppliers](#). Transparency data.
- 10 April 2014 - [National Health Service \(NHS\) Primary Medical Services Directions](#). Guidance.
- 10 April 2014 - [DH and HEE framework agreement](#). Policy paper.
- 10 April 2014 - [G8 dementia summit: global action against dementia](#). Guidance.
- 8 April 2014 - [Report on public expenditure on health and social care: response](#). Policy paper.
- 8 April 2014 - [Implementing the 0 to 25 special needs system](#). Guidance Part of a collection: [Early years and childcare: guidance and advice](#) and [Children's social care: guidance and advice](#).
- 8 April 2014 - [Certificates of Free Sale for medical device companies](#). Consultation outcome.
- 8 April 2014 - [Review of the operation of Sections 135 and 136 of the Mental Health Act](#). Open consultation.
- 7 April 2014 - [Medics practise life-saving skills](#).
- 7 April 2014 - [DH and HTA framework agreement](#).
- 7 April 2014 - [NHS funded nursing care rates increased from 1 April 2014](#).
- 7 April 2014 - [Update to charging arrangements for adult social care services](#).
- 4 April 2014 - [DH departmental spending over £500: 2014](#). Guidance part of a collection: [DH spending over £500](#).
- 4 April 2014 - [Funding transfer from the NHS to social care 2014: directions](#).
- 4 April 2014 - [Positive and safe: reducing the need for restrictive interventions](#).
- 4 April 2014 - [New safeguards to protect patients](#).

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

- 7 April 2014 - [HHS Assistant Secretary for Health Howard Koh statement on National Public Health Week](#).
- 8 April 2014 - [HHS announces progress in disease prevention and health promotion](#).
- 9 April 2014 - [Historic release of data gives consumers unprecedented transparency on the medical services physicians provide and how much they are paid](#).

Australian Medical Association (AuMA)

- 9 April 2014 - [Health policy - lots of speculation but no consultation](#). AuMA President, Dr Steve Hambleton, today called on the Government to engage in meaningful consultation with the medical profession about the future of primary health care. [Read more](#).
- 8 April 2014 - [Further progress in resolving contract dispute](#). AuMA President, Dr Steve Hambleton, said today there had been further positive steps towards resolving the Queensland hospital doctor contract dispute. [Read more](#).
- 8 April 2014 - [GP Super Clinics 'not so super' - AuMA](#). The AuMA welcomes today's reports that the Government is taking action to discontinue any further expansion of the previous Government's failed GP Super Clinics program. [Read more](#).

British Medical Association (BMA)

- 10 April 2014 - [Number of organ donors doubles](#). A rise in the number of organ donors and transplants has been welcomed by the BMA.

10 April 2014 - [Pharma company drops clinical data legal challenge](#). A case challenging the openness of clinical trial data will no longer go to court.

9 April 2014 - [Call to trust GPs' judgement on cancer referrals](#). The judgement of GPs should be taken in to account in relation to urgent referrals.

9 April 2014 - [BMA demands broader remit for anti-slavery bill](#). Anti-slavery laws must cover all cases, the BMA says.

8 April 2014 - [GPs question change to prescribing rules](#). Family doctors have called for the reintroduction of a prescribing incentive scheme.

8 April 2014 - [BMA backs blood clot awareness campaign](#). A campaign to highlight the dangers of blood clots has won the support of BMA Welsh council chair.

Canadian Medical Association (CMA)

9 April 2014 - [Rainy day on the Hill a productive one for CMA](#). Armed with persuasive new polling data on the importance Canadians place on the care of seniors.

7 April 2014 - [Meetings planned with over 80 politicians as CMA goes to Parliament Hill](#).

American Medical Association (AMA)

April 9 2014 - [AMA Statement on CMS' Medicare Data Release](#) "We believe that the broad data dump today by CMS has significant short-comings regarding the accuracy and value of the medical services rendered by physicians."

April 8 2014 - [AMA Guide to Media Reporting on CMS' Medicare Physician Claims Data](#). AMA urges 'verification prior to publication'; accurate understanding of Medicare claims data is critical to physicians and patients.

April 8 2014 - [AMA Announces Partnership with YMCA of Greater Indianapolis, IU Health Physicians to Prevent Type 2 Diabetes](#). The AMA announced a new partnership with the YMCA of Greater Indianapolis and the IU Health Physicians Accountable Care Organization aimed at improving the health of local individuals who have prediabetes and preventing type 2 diabetes.

April 7 2014 - [AMA's Ambitious Initiative to Prepare Medical Students for Health Care Tomorrow Brings Together 11 Medical Schools to the University of Michigan](#). The AMA today convened leaders and faculty from 11 pioneering medical schools from throughout the country in Michigan today as part of its national Accelerating Change in Medical Education initiative.

April 7 2014 - [AMA Statement on Naloxone Product Approval](#). The AMA applauds the Food and Drug Administration (FDA) for approving the automatic injector of opioid overdose antidote Naloxone for prescription by physicians.

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.

Mark also acts for the regulators of the medical and other health professions.

Contact Details

T +61 8 6467 6015

MORE INFORMATION

Contact your nearest DLA Piper office:

BRISBANE

Level 29, Waterfront Place
1 Eagle Street
Brisbane QLD 4000
T +61 7 3246 4000
F +61 7 3229 4077
brisbane@dlapiper.com

CANBERRA

Level 3, 55 Wentworth Avenue
Kingston ACT 2604
T +61 2 6201 8787
F +61 2 6230 7848
canberra@dlapiper.com

MELBOURNE

Level 21, 140 William Street
Melbourne NSW 3000
T +61 3 9274 5000
F +61 3 9274 5111
melbourne@dlapiper.com

PERTH

Level 31, Central Park
152–158 St Georges Terrace
Perth WA 6000
T +61 8 6467 6000
F +61 8 6467 6001
perth@dlapiper.com

SYDNEY

Level 38, 201 Elizabeth Street
Sydney NSW 2000
T +61 2 9286 8000
F +61 2 9286 4144
sydney@dlapiper.com

www.dlapiper.com

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