

HEALTH ALERT

9 SEPTEMBER 2013

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JUDGMENTS

Commonwealth

4 September 2013 - [*Viktorija Pecenka v Minister for Health* \[2013\] HCASL 145](#)

Children's hospital employee - claim suffered two psychiatric injuries in course of employment - breach of duty of care - application for extension of time to make special leave application dismissed.

New South Wales (NSW)

5 September 2013 - [*Application of Michael Bar-Mordecai* \[2013\] NSWSC 1265](#)

On 6 September 2000, the medical Tribunal of NSW de-registered Mr Bar-Mordecai as a medical practitioner and prohibited him from making an application for review of that order for seven years. Subsequently, there have been at least 10 attempts to have those orders set aside, rendering Mr Bar-Mordecai a vexatious litigant. He must therefore be granted leave by the Court pursuant to the *Vexatious Proceedings Act 2008* (NSW) (the Act) to institute any proceedings.

Mr Bar-Mordecai has continually challenged the legitimacy and correctness of the Tribunal's decision, believing, among other things, that the deputy chairman of the Tribunal surreptitiously and clandestinely commandeered the decision making function of the other members of the Tribunal and that the evidence presented was fraudulent.

On 9 May 2013 Fullerton J dismissed Mr Bar-Mordecai's application for leave, concluding that he was attempting to re-litigate the same issues and request orders the Supreme Court could not make. Therefore, the proceeding would, if commenced, be vexatious.

Mr Bar-Mordecai submitted in the current application that Fullerton J's dismissal was "punitive, misconstrued, and condemned [him] to remain a parasite on Centrelink instead of being a productive medical practitioner." He therefore sought an order that leave be granted for him to be able to make an application for review with the Tribunal.

Garling J dismissed the application, commenting that it had already been rejected by the Court twice and the basis upon which the case would be argued was not permitted by the legislation and doomed to fail.

3 September 2013 - [*Chamley v Sydney Children's Hospital Network* \[2013\] NSWADT 197](#)

Application for review of a determination by the respondent, the Sydney children's hospital network, in regard to an application by the Applicant, Ms Chamley, seeking access to information held by the Respondent.

Northern Territory (NT)

2 September 2013 - [*Kennedy v Anti-Discrimination Commissioner* \[2013\] NTCA 08](#)

The Appellant first issued a complaint with the NT anti-discrimination Commissioner saying he had been discriminated against because of his age and impairment by the manager of a physiotherapy clinic.

The issue arose after the Appellant requested his physiotherapist write him a letter regarding his ailments for a legal proceeding. He attended the clinic under an arrangement paid for by the Department of Veteran Affairs. He was informed after the letter was prepared that there was a \$280 charge which he complained he had not been told about. Upon asking to speak to the manager, he was informed that this was the standard charge. The manager took exception to things said by the Appellant and told him not to return to the clinic.

The Commissioner determined the complaint was misconceived and/or did not disclose any prohibited conduct. The reported conversation was about payment for a service, a matter not dependant on the Appellant's age or any impairment.

The Appellant appealed the decision to the Local Court and then to the Supreme Court, both of which upheld the Commissioner's decision. The Appellant then appealed to the Court of Appeal, arguing the Commissioner had wrongly concluded the complaint did not fall within the ambit of the *Anti-Discrimination Act 1996* (NT).

The Court explained that the Appellant needed to prove he was refused physiotherapy services or was treated less favourably regarding those services because of his age and/or impairment. The Court concluded there was no causal nexus established and dismissed the appeal.

South Australia (SA)

30 August 2013 - [Inquest into the death of Doreen Hilda Chaplin 21/2012 \(1437/2010\)](#). Death as a result of fat embolism syndrome and bronchopneumonia following nail fixation of bilateral femoral shaft fractures complicating marked osteoporosis.

4 September 2013 - [Inquest into the death of Michael Anthony Thalbourne-Maitreya 11/2012 \(0612/2010\)](#). Death as a result of the toxic effects of quetiapine and clonazepam - investigation into the medical interventions provided - patient detained by a medical practitioner pursuant to the *Mental Health Act 1993* (SA).

4 September 2013 - [Inquest into the death of Dionisios Arkadianos 13/2012 \(0653/2010\)](#). Death as a result of pneumonia complicating chronic renal and cardiac failure, vascular dementia and chronic obstructive lung disease. At time of death, patient detained at the Flinders Medical Centre pursuant to the *Mental Health Act 1993* (SA).

LEGISLATION

Commonwealth

26 August 2013 - [Amendment of statement of principles concerning lumbar spondylosis No. 69 of 2013](#).

26 August 2013 - [Amendment of statement of principles concerning lumbar spondylosis No. 70 of 2013](#).

26 August 2013 - [Statement of principles concerning malignant neoplasm of the larynx No. 61 of 2013](#).

26 August 2013 - [Statement of principles concerning malignant neoplasm of the larynx No. 62 of 2013](#).

26 August 2013 - [Statement of principles concerning hypertension No. 63 of 2013](#).

26 August 2013 - [Statement of principles concerning hypertension No. 64 of 2013](#).

26 August 2013 - [Statement of principles concerning gastro-oesophageal reflux disease No. 65 of 2013](#).

26 August 2013 - [Statement of principles concerning gastro-oesophageal reflux disease No. 66 of 2013](#).

26 August 2013 - [Statement of principles concerning motor neurone disease No. 67 of 2013](#).

26 August 2013 - [Statement of principles concerning motor neurone disease No. 68 of 2013](#).

Northern Territory

Introduced 29 August 2013 by Mr Elferink - [Misuse of drugs amendment \(methamphetamine\) Bill 2013](#).

REPORTS

Australia. Department of Health & Ageing

Private Health Insurance Circulars

3 September 2013 - [PHI 56/13 new private \(same day\) hospital information](#).

Australia. Health Practitioner Regulation Agency and the boards

4 September 2013 - Application date extended for the workforce innovation and reform working party vacancies application date extended until 20 September 2013 for appointment to the workforce innovation and reform working party of the medical radiation practice Board of Australia. [Read more](#).

4 September 2013 - National Board to fund nursing and midwifery health program for two more years. [Read more.](#)

4 September 2013 - Newsletter from occupational therapy Board. The occupational therapy Board of Australia releases its latest newsletter. [Read more.](#)

Australia. Therapeutic Goods Administration (TGA)

6 September 2013 - [Prosolution tablets](#) pose a serious risk to your health and should not be taken.

6 September 2013 - [Over the counter \(OTC\) N2 applications and OTC medicine monographs](#). The OTC "N2" applications will be accepted for evaluation by the TGA from 1 October 2013, as part of a 12 month trial of the new application route.

6 September 2013 - [Australian regulatory guideline for over the counter medicines \(ARGOM\): Guidelines on the pre-market application and evaluation process for OTC medicines](#). Updates have been made to include links to the requirements for OTC new medicine N2 applications using OTC monographs and the specific monographs.

4 September 2013 - [Advisory committee on complimentary medicines \(ACCM\) meeting statement, meeting 14, 2 August 2013](#).

4 September 2013 - [Australian public assessment reports for prescription medicines \(AusPARs\)](#). Added ceftaroline fosamil (zinfo), fentanyl (as citrate) (PecFent) and progesterone (endometrin pessaries).

3 September 2013 - [Cognis cardiac resynchronisation therapy defibrillator and teligen implantable cardioverter defibrillator](#). Boston Scientific, in consultation with the TGA, has issued a hazard alert regarding some models of cognis cardiac resynchronisation therapy defibrillators (CRT-Ds) and teligen implantable cardioverter (ICDs).

30 August 2013 - [Minor variations to registered prescription medicines: chemical entities and biological medicines](#). Updated Self-assessable request (SAR): Request to vary an Australian register of therapeutic goods (ARTG) entry under subsection 9D(3) form.

Australian Institute of Health & Welfare

28 August 2013 - [Australians seeking help for drug use aged mainly between 20 and 39](#).

Australian Commission on Safety and Quality in Health Care

2 September 2013 - [On the Radar: Issue 142](#).

Australian Capital Territory (ACT). Health Directorate

2 September 2013 - [ACT health promotion grants program](#). Healthy Canberra grants and the health promotion innovation fund are now open for applications.

New South Wales. Ministry of Health

5 September 2013 - [Minister presents inaugural NSW awards for excellence in nursing and midwifery](#).

30 August 2013 - [NSW government announces site for new Maitland hospital](#).

03 September 2013 - [Campbelltown hospital redevelopment takes shape as new general manager gets to work](#).

Northern Territory. Department of Health

4 September 2013 - [Robyn Lambley - new respite care facility for Alice Springs](#). Minister for Health Robyn Lambley officially opened a new \$2 million respite care facility in Alice Springs today.

Queensland. Department of Health

1 September 2013 - [Record breastscreens performed in Queensland](#).

4 September 2013 - [Health takes out two premier's awards](#). Queensland health's commitment to improving patient access was recognised at the Premier's excellence in public service delivery awards.

South Australia. Department for Health & Ageing

30 August 2013 - New emergency department and rehab unit for Riverland. Another milestone has been reached in the \$36 million re-development of the Riverland general hospital in Berri. [Read more](#).

4 September 2013 - [Port Pirie soil report](#).

Tasmania. Department of Health & Human Services

3 September 2013 - [Next step for royal redevelopment](#).

4 September 2013 - [Applications open for nurses](#).

Victoria. Department of Health

5 September 2013 - [Ambulance hit by \\$350,000 carbon tax bill](#). The Federal Labor government's carbon tax has slammed ambulance Victoria with a \$347,500 slug on its energy bills over the past 12 months, Minister for Health David Davis said today.

5 September 2013 - [Labor's fringe benefits tax \(FBT\) changes will cost Victorian families and businesses millions](#). The Federal Labor government must immediately release the secret lavarch report into tax concession changes that will hit the pay packets of Victoria's health and charity workers, and that is currently crippling the Victorian automotive manufacturing sector, Minister for Health David Davis and Minister for Manufacturing David Hodgett said today.

30 August 2013 - [Yarrawonga health leads the state in solar savings](#). Yarrawonga health will reap massive energy bill savings after flicking the switch on the largest solar panel installation of any public hospital in Victoria.

30 August 2013 - [Coalition government announces new \\$2 million mental health unit for outer eastern suburbs](#). The Victorian Coalition government today announced that a new adult acute psychiatric unit will be built at Maroondah hospital.

30 August 2013 - [Coalition unveils new package to tackle growing use of ice](#). The Victorian Coalition government is broadening the fight against the growing use of the methamphetamine "ice" in the community with a new package of targeted initiatives announced today by Minister for mental health Mary Wooldridge.

30 August 2013 - [Life-saving treatment to reduce overdose deaths](#). The Victorian Coalition government initiative will help reverse potentially fatal drug overdoses through the administration of a life-saving medication, Minister for mental health Mary Wooldridge announced today.

Western Australia (WA). Department of Health

Media Releases

2 September 2013 - [First chopper pad test-run at Fiona Stanley hospital](#).

Operational Directives (OD)

5 September 2013 - [OD 0452/13](#). WA health employee grievance resolution policy. The WA health employee grievance resolution policy has been amended to reflect the minimum requirements under Regulation 10, public sector management (breaches of public sector standards) regulations 2005.

4 September 2013 - [OD 0451/13](#). Approved patient administration system requirements to manage and record non-admitted outpatient activity. The purpose of this operational directive is to advise health services of the requirement that from 1 July 2013, all non-admitted outpatient activity must be managed and recorded using an approved patient administration system. Currently, the systems that are capable of meeting the essential criteria are the corporately managed TOPAS, webPAS and HCARE.

Information Circular (IC)

4 September 2013 - [IC 0164/13](#). Patient confidentiality: the purpose of this IC is to provide a broad overview to WA Health employees about: (a) the Common law duty of confidentiality that is owed to WA health patients; and (b) the exceptions to that common law duty of confidentiality.

New Zealand. Ministry of Health

30 August 2013 - [Cancer: new registrations and deaths 2010](#).

3 September 2013 - [A New Zealand social bonds pilot](#). The Government has given the green light to piloting social bonds - an innovative way for governments to contract to achieve specific social sector outcomes. [Read more](#).

United Kingdom. Department of Health

5 September 2013 - [National joint registry steering committee: medical director vacancy](#).

5 September 2013 - [Deputy chief medical officers appointed](#).

5 September 2013 - [Ten million pound cash boost to improve the health of homeless people](#).

4 September 2013 - [Local clinical research network hosts announced by the national institute for health research \(NIHR\)](#).

4 September 2013 - [£1 billion to help accidental and emergency services \(A&Es\) and national health service \(NHS\) staff access medical records in hi-tech hospital revolution](#).

3 September 2013 - [UK to host G8 dementia summit](#).

3 September 2013 - [The world-wide challenge of dementia](#).

2 September 2013 - [Department of health's response to sustains hospital food standards campaign](#).

30 August 2013 - [Poisons service issues "legal highs" alert](#).

United States of America. Department of Health & Human Services

3 September 2013 - [National preparedness month](#).

September 4, 2013 - [National childhood obesity awareness month: a statement by secretary Kathleen Sebelius](#).

Australian Medical Association (AMA)

6 September 2013 - [Doctors and other health workers must be protected in times of armed conflict and violence](#). World medical association (WMA) regulations in times of armed conflict and other situations of violence.

6 September 2013 - [Plan needed to ensure strong future clinical academic workforce](#). AMA position statement on clinical academic pathways in medicine. [Read more](#).

4 September 2013 - [Big gaps in health policies from major parties](#). AMA President, Doctor (Dr) Steve Hambleton, today urged the major parties to plug the gaps in their election health platforms before Saturday's election. [Read more](#).

4 September 2013 - [First-rate defence personnel getting second-rate health service coordination](#). AMA President, Dr Steve Hambleton, today called on the next government to commission an urgent audit into the coordination of the delivery of health services to Australian defence force personnel. [Read more](#).

3 September 2013 - [AMA Indigenous peoples' scholarship winner wants to close the gap in health inequalities](#). A young Indigenous woman who has embraced the fight to close the life expectancy gap between Indigenous and non-Indigenous Australians has won the AMA Indigenous Peoples' medical scholarship. [Read more](#).

British Medical Association (BMA)

4 September 2013 - [Call to tackle patient safety within appraisals](#). Doctors should be encouraged to raise patient safety concerns through the appraisal and revalidation.

4 September 2013 - **Academic trainees face dual pressures, says BMA**. Academic doctors in training are suffering from a lack of time for academic work.

4 September 2013 - **Sick-leave tax break favours government-funded body, say doctors leaders**. Occupational medicine doctors are concerned about government plans to implement tax exemptions.

4 September 2013 - **Government claims lobbying bill vote victory**. A controversial bill, which could curtail the lobbying activities of organisations such as the BMA.

5 September 2013 - **BMA welcomes standardised cigarette packaging commitment**. The BMA has welcomed a Scottish government commitment to consult on standardised packaging for cigar.

5 September 2013 - **Consultants' leader targets medical leadership**. The BMA Scottish consultants committee of the BMA has elected its first female chair.

3 September 2013 - **General practice — marching towards a morale victory**.

3 September 2013 - **BMA prepares to replace specialty subcommittees with senior doctors**.

3 September 2013 - **Lobbying bill "must not pass into law."**

2 September 2013 - **Hospital restructuring programme under fire**.

2 September 2013 - **Trust resolves pay "processing error."**

30 August 2013 - **Support on offer for doctors affected by trust pay error**.

American Medical Association (AMA)

9 May 2013 - American medical news - **Medical groups fear Affordable Care Act 2010 (ACA) grace period will lead to unpaid claims**. Stakeholders ask federal officials to require health plans purchased on insurance exchanges to notify physician practices and hospitals when patients stop paying premiums.

9 April 2013 - **Diabetes control in Chinese adults** - Using a complex, multistage, probability sampling design, Xu and co-authors conducted a cross-sectional survey in a nationally representative sample of 98 658 Chinese adults at least 18 years old in 2010 to investigate the prevalence of diabetes and glycemic control in the Chinese adult population.

9 March 2013 - **American medical news ceases publication after 55-year run**. Unsustainable financial losses forced the move despite the newspaper's editorial quality, the AMA's senior management says. The Association's other news operations will be enhanced.

9 March 2013 - **Motherhood and medical ethics: looking beyond conception and pregnancy**. In the last half-century, numerous technological advances, including oral contraceptives, in vitro fertilization, and prenatal testing, have drastically altered the nature of human reproduction.

9 March 2013 - **On the road with AMA President, Ardis Dee Hoven, MD**. Dr. Hoven writes about how the AMA will deliver the news and information physicians want, how and when they want it.

ABOUT US

Anthony Willis



Although maintaining a government focus, Anthony also advises corporate clients particularly in the technology and research and development sectors. He advised the government on proposed changes to Australian patent legislation concerning pharmaceuticals in the context of the US Australia Free Trade Agreement.

He has also advised on the patenting of genetic technology in the context of the BRCA genes.

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