



21 JULY 2014

<b>Judgments</b> .....	<b>2</b>
Queensland.....	2
Victoria.....	2
New South Wales.....	3
United Kingdom.....	3
<b>Legislation</b> .....	<b>3</b>
Commonwealth.....	3
<b>Reports</b> .....	<b>3</b>
Australia. Department of Health & Ageing.....	3
Australia. Health Practitioner Regulation Agency and the boards.....	4
Australia. National Health & Medical Research Council.....	4
Australia. Therapeutic Goods Administration.....	4
Australian Institute of Health & Welfare.....	4
Australian Commission on Safety and Quality in Health Care.....	4
New South Wales. Ministry of Health.....	4
Queensland. Department of Health.....	5
South Australia. Department for Health & Ageing.....	5
Victoria. Department of Health.....	5
Western Australia. Department of Health.....	5
New Zealand. Ministry of Health.....	6
United Kingdom. Department of Health.....	6
United States of America. Department of Health & Human Services.....	6
Australian Medical Association.....	6
British Medical Association.....	7
Canadian Medical Association.....	7
American Medical Association.....	7
<b>More Information</b> .....	<b>7</b>

## JUDGMENTS

### Queensland

14 April 2014 (published 11 July 2014) - [Ladhams v Medical Board of Australia \(No 2\) \[2014\] QCAT 286](#)

This was an appeal by a doctor to the Queensland Civil and Administrative Tribunal of a decision by the Medical Board of Australia to take immediate action against him and place conditions on his registration.

The decision was made after a patient, who was being treated by the doctor for Lyme Disease with intravenous antibiotics, presented to hospital because of complications with her peripherally inserted central catheter. The existence, diagnosis and treatment of Lyme Disease are matters of considerable controversy within the medical profession and the diagnosis of Lyme Disease in this case was not clinically supported, as the patient had not travelled overseas or have a history of tick bite.

The Tribunal confirmed the decision of the Board to take immediate action, considering that the doctor posed a serious risk to persons because he showed a bias towards diagnosing Lyme Disease. This presented a real and serious risk of misdiagnosis and that other conditions could remain undiagnosed and untreated.

The Tribunal removed the conditions included in the decision of the Medical Board and instead imposed conditions that the doctor must not diagnose or treat Lyme Disease unless he obtains a positive diagnosis at an accredited lab, that he not treat a patient for Lyme Disease with intravenous antibiotics without first referring the patient to an Infection Diseases Specialist for the development of a treatment plan, that he must seek the approval of the Board before referring a patient for this purpose and must only treat a patient for Lyme Disease in accordance with this treatment plan.

7 May 2014 (published 11 July 2014) - [Chaudhry v Medical Board of Australia \(No 2\) \[2014\] QCAT 288](#)

Professions and trades – medical practitioner – licences and registration – other matters – where registrant allegedly failed to check and action approximately 1,350 pathology reports – where such failure would place the registrant’s patients in danger - where there are multiple methods available to check pathology reports – where the registrant contends he used these methods to check pathology reports – whether the registrant poses a serious risk to the public.

### Victoria

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

This was an application made by a dental clinic to the Supreme Court of Victoria for an interlocutory injunction restraining a dentist, who had previously worked at the clinic, from practicing within a 5 km radius.

The dentist had worked at the clinic as a subcontracted dentist from 2008. In May 2014, the dentist left the clinic to set up her own dental practice at a distance of about 3 kilometres away. The clinic applied for the injunction based on a restraint of trade clause that formed one of the terms of a contract it claimed to have made with the dentist in 2013. The clinic claimed that this was orally accepted when it was presented to her, or alternatively that the dentist had accepted its terms by continuing to provide dental services. The dentist denied the agreement applied to their relationship.

The Court dismissed the application as it was not convinced the clinic's claim had a sufficient probability of success, noting that the law has a general policy against restraint. The Court found that the potential prejudice to the dentist if the injunction were granted, would outweigh the potential prejudice to the clinic if the injunction was refused. This was because the dentist had a five year lease on her premises and a loan to finance her new practice, whereas the overflow of clients from the clinic to the new practice was likely to be a small number of their overall client base.

16 July 2014 - [Finding of Inquest into the Death of Shannon James Lees \(Peat\) COR 2012 0485](#)

Death from multi drug overdose including tramadol and methadone while an involuntary patient.

11 July 2014 - [Finding of Inquest into the death of Paul Kolembus COR 2013 001227](#)

Death from complications of acute pancreatitis while in a residential care facility.

### **New South Wales (NSW)**

16 July 2014 - [Health Care Complaints Commission v Bergmeier \[2014\] NSWCATOD 75](#)

Unsatisfactory professional conduct; professional misconduct, boundary violations, personal relationship with prison inmate; manipulation and falsification of prison records; cancellation of registration.

14 July 2014 - [AMH v Western New South Wales Local Health District \[2014\] NSWCATAP 33](#)

Administrative law - Civil and Administrative Tribunal (NSW) - appeal - application for leave to extend the appeal to a review of the merits - apprehension of bias.

8 July 2014 - [Hoang v Euroa Community Health Centre \[2014\] NSWCA 222](#)

Procedure - application for leave to appeal against striking out of statement of claim and dismissal of proceedings - no coherent cause of action disclosed - leave to appeal refused.

### **United Kingdom**

11 July 2014 - [Haynes v Kingston Hospital NHS Trust \[2014\] EWHC 2321 \(QB\)](#)

The claimant, Alanni Haynes, is an eight-year-old girl with profound disabilities. She has cerebral palsy, with cognitive impairment and impaired mobility; she has significant learning, behavioural and communication problems; and she is entirely dependent on others for her care, the activities of daily living, and safety. Her likely life expectancy is such that she may be expected to live until about the age of 74. Her injuries were caused by the defendants' admitted negligence in the management of her mother's labour and in her delivery. Judgment on liability was entered on 3 August 2012. The proceedings are now at an advanced stage, with service of a detailed schedule and counter schedule and the exchange of expert evidence from a variety of medical and non-medical experts. A settlement meeting took place on 13 May 2014 at which the issues were narrowed. The claims for general damages, past losses, and interest have since been agreed. Trial of the remaining issues is fixed for 20 October 2014.

## **LEGISLATION**

### **Commonwealth**

18 July 2014 - [Social Services and Other Legislation Amendment \(Seniors Health Card and Other Measures\) Bill 2014](#). Introduced in Senate.

17 July 2014 - [National Health Amendment \(Pharmaceutical Benefits\) Bill 2014](#).

## **REPORTS**

### **Australia. Department of Health & Ageing.**

Media releases

17 July 2014 - [Survey Reinforces Fight Against Smoking and Substance Abuse](#). The Assistant Minister for Health, Fiona Nash, has welcomed the release of key findings from the 2013 National Drug Strategy Household Survey which show smoking rates in Australia are falling and young people are putting off their first drink of alcohol.

16 July 2014 - [Check Yourself This National Diabetes Week](#). It's National Diabetes Week and Australians are reminded about an online tool that can assess whether they're at risk of developing type 2 diabetes.

14 July 2014 - [Facts on PBS Co-payment](#) has been in place since 1960, and has had the support of successive Governments since then.

### **Australia. Health Practitioner Regulation Agency and the boards**

17 July 2014 - The South Australian Board of the Medical Board of Australia has proposed to suspend the medical registration of Dr Philip Nitschke. [Read Article](#).

17 July 2014 - The Chinese Medicine Board of Australia currently has two consultations closing this month. [Read Article](#).

16 July 2014 - Mr Bharath Devadas - permanently disqualified from applying for registration as a physiotherapist. [Read Article](#).

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

15 July 2014 - National Boards expect practitioners to comply with CDNA guidance on and for health practitioners with blood borne viruses. [Read Article](#).

14 July 2014 - On 1 July 2014 all Boards and AHPRA launched refreshed regulatory principles for regulating in the public interest. It also marked our 4th birthday and new arrangements in Queensland. [Read Article](#).

### **Australia. National Health & Medical Research Council (NHMRC).**

16 July 2014 - [NHMRC launches Advanced Health Research and Translation Centre initiative](#). The National Health and Medical Research Council (NHMRC) has today announced a new initiative to help turn research discoveries into improved medical practice and commercial opportunities. Submissions are now open for leading centres of health and medical research to apply for recognition as an Advanced Health Research and Translation Centre. Centres will usually include hospitals and universities and medical research institutes. [See full media release](#).

15 July 2014 - [Draft paper on the health effects of lead released for consultation](#). The NHMRC has today released a draft Information Paper 'Evidence on the effects of lead on human health' for public consultation. The draft paper was prepared by an expert working committee and is based on the findings of an independent systematic review of recent evidence, also published today. [See full media release](#).

### **Australia. Therapeutic Goods Administration (TGA)**

17 July 2014 - [Cost recovery impact statements](#).

14 July 2014 - [Advisory Committee on Prescription Medicines \(ACPM\)](#). Pharmaceutical Subcommittee (PSC) membership updated.

14 July 2014 - [Complementary medicines: Cancellations from the ARTG following compliance review](#).

### **Australian Institute of Health & Welfare**

17 July 2014 - [2013 National Drug Strategy Household Survey: key findings \(web release\) media release](#).

16 July 2014 - [Housing assistance for Indigenous Australians Housing circumstances of Indigenous households: tenure and overcrowding Homelessness among Indigenous Australians media release | Indigenous Observatory](#).

### **Australian Commission on Safety and Quality in Health Care**

14 July 2014 - On the Radar – Issue 182 ([PDF 101KB](#)) ([Word 122KB](#)).

### **New South Wales (NSW). Ministry of Health**

Media Releases

16 July 2014 - [Applications invited for prestigious international medical innovation program](#).

16 July 2014 - [NSW Government announces \\$1.5 million for Kirby Institute research into HIV](#).

15 July 2014 - [Language no barrier for transplant recipients](#).

14 July 2014 - [Too many people remain unaware they have HIV - #HelpEndHIV](#).

Policy Directives & Guidelines

17 July 2014 - [Departure of Emergency Department Patients](#).

16 July 2014 - [Patient Identification Bands](#).

15 July 2014 - [Infants and Children: Acute Management of Bacterial Meningitis: Clinical Practice Guideline](#).

11 July 2014 - [Mandatory Training Requirements in Policy Directives](#).

Information Bulletins

17 July 2014 - [Junior Medical Officer - Clinical Year and Term Dates 2014 - 2018](#).

15 July 2014 - [Increase in Car Parking Fees](#).

15 July 2014 - [Notification of Four Obsolete Policy Directives](#).

15 July 2014 - [Notification of Obsolete Policy Directive PD2005\\_122](#).

14 July 2014 - [Salary Increase Staff Specialists NSW Public Health System - Staff Specialists \(State\) Award](#).

### Queensland. Department of Health

14 July 2014 - [Inquiry into Gold Coast X-ray reporting](#). News of a long-running failure in the routine reporting of Gold Coast patients' x-rays will be the centre of an independent investigation, ordered by Health Minister, Lawrence Springborg.

11 July 2014 - [E-cigarette verdict is healthy outcome](#). A year-long investigation by Tropical Public Health Services (Cairns) has led to a landmark court ruling in Cairns.

### South Australia. Department for Health & Ageing

18 July 2014 - Hands off our ambos. The State Government will launch a public awareness campaign after assaults on paramedics have nearly doubled in two years. [Read more](#).

### Victoria. Department of Health

17 July 2014 - [Coalition delivers 539 additional paramedics](#). A massive boost in the number of paramedics and a record number of shifts is enabling Ambulance Victoria to respond to more calls for help than ever before, Minister for Health David Davis said today.

16 July 2014 - [Paramedics urged to accept upgraded pay offer](#). Premier Denis Napthine and Minister for Health David Davis have urged paramedics to accept a revised pay offer tabled today and bring to an end the long-running ambulance industrial dispute.

16 July 2014 - [Major mental health project begins at Werribee Mercy Hospital](#). The Victorian Coalition Government is investing \$34 million in the construction of the Werribee Mercy mental health expansion project – one of the largest public mental health projects underway in Victoria.

15 July 2014 - [Work begins on \\$250 million Monash Children's Hospital, creating more than 700 jobs](#). Premier Denis Napthine today joined Minister for Health David Davis and Minister for Mental Health Mary Wooldridge in Clayton to mark the start of major construction works on the new \$250 million Monash Children's Hospital.

### Western Australia (WA). Department of Health

Media Releases

18 July 2014 - [Esperance Health Campus redevelopment starts](#).

Operational Directives (OD)

17 July 2014 - [OD 0540/14 Admission Readmission Discharge and Transfer Policy for WA Health Services \(2014\)](#) The introduction of the national activity based funding program requires a standardised approach to

the rules regarding how activity is classified across Australia. A primary focus of the ABF/ABM implementation strategy has been to ensure health services count, classify and report activity correctly. Accurate and timely information about the care we provide is used in many ways – including ensuring that our health services are adequately funded for the services they provide. The Admission, Readmission, Discharge and Transfer Policy for WA Health Services (the ARDT policy) is a key part of this process and its intent is to provide health services with a framework, containing detailed rules and criteria to enable this to occur.

17 July 2014 - [OD 0539/14](#) Information Access and Disclosure Policy. The Information Access and Disclosure Policy ensures that information within WA Health's data collections are accessible and available to end users in a secure, consistent and controlled manner.

16 July 2014 - [OD 0538/14](#) WA Health Leave Management Strategy. This Operational Directive is in relation to the ongoing management of leave liability and implementing controls determined annually by the State Health Executive Forum (SHEF). All WA Health entities must implement the following leave liability controls. These controls are business imperatives that build on the leave management strategy of OD461/13; through the additional objective of clearing excess Long Service Leave (LSL) within a specified timeframe.

16 July 2014 - [OD 0537/14](#) The Information Classification Policy is to establish a framework for classifying WA Health information based on sensitivity and risk profiles. The classification assigned places controls relating to the type of information and its needs to remain confidential and secure.

#### **New Zealand. Ministry of Health**

17 July 2014 - [Glass fragments in Actavis brand of oral liquid amoxicillin prompts recall.](#)

14 July 2014 - [Gender identity – proposed concepts for a statistical standard.](#)

#### **United Kingdom. Department of Health (DH)**

17 July 2014 - [DH and NHSBT Framework Agreement.](#)

17 July 2014 - [Extending the scope of the Electronic Prescription Service.](#)

16 July 2014 - [Special measures scheme for failing care homes.](#)

16 July 2014 - [Continuation of whooping cough vaccination programme in pregnancy advised.](#)

15 July 2014 - [Government consults on ending smoking in cars carrying children.](#)

15 July 2014 - [Proposals to make private vehicles smokefree when carrying children.](#)

14 July 2014 - [Plans to encourage the recovery of migrant NHS healthcare costs.](#)

14 July 2014 - [Recovering costs of NHS healthcare from visitors and migrants.](#)

11 July 2014 - [New Responsibility Deal alcohol pledges published.](#)

11 July 2014 - [Panel Meeting: 10 July 2014.](#)

11 July 2014 - [UK digital health demonstration centre opens in Zhejiang, China.](#)

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

15 July 2014 - [HHS announces availability of \\$11 million to better integrate HIV services into community health centers.](#)

14 July 2014 - [New resources improve states' abilities to advance Medicaid payment and delivery system reform.](#)

#### **Australian Medical Association (AuMA)**

18 July 2014 - [Urgent action needed to increase HIV testing rates.](#)

17 July 2014 - [AIHW survey shows significant cut in smoking rates.](#)

15 July 2014 - [AuMA President, A/Prof Brian Owler, National Press Club, Wednesday 23 July 2014](#)  
"Ensuring the sustainability of the health system."

### British Medical Association (BMA)

17 July 2014 - [Doctors leaders warn against assisted dying.](#)

17 July 2014 - [GMC defines licence to practise rules for doctors overseas.](#)

16 July 2014 - [Phone app emergency alert for medically trained.](#)

16 July 2014 - [Call to clarify willful neglect offence.](#)

14 July 2014 - [Report urges closer control of OOH care](#) (out of hours).

### Canadian Medical Association (CMA)

17 July 2014 - [CPS Mobile app coming soon for CMA members.](#)

### American Medical Association (AMA)

16 July 2014 - [Prevent opioid overdose: CME module explains how.](#)

17 July 2014 - [JAMA \(Journal of the American Medical Association\) Highlights: This week's top articles from the JAMA Network.](#)

## ABOUT US

### Michael Regos



Michael is the head of the DLA Piper health litigation group.

He practises in the areas of health law, insurance law, medical negligence and coronial enquiries. He represents Victorian public hospitals and their insurers, the Victorian Managed Insurance Authority and is the solicitor of choice for Australia's second-largest private health operator.

Michael regularly presents to medical groups and hospitals on medico-legal issues.

### Contact Details

T +61 3 9274 5437

[michael.regos@dlapiper.com](mailto:michael.regos@dlapiper.com)

## 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](mailto: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](mailto: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 22, No.1 Martin Place  
Sydney NSW 2000  
**T** +61 2 9286 8000  
**F** +61 2 9286 8007  
sydney@dlapiper.com

[www.dlapiper.com](http://www.dlapiper.com)

DLA Piper is a global law firm operating through various separate and distinct legal entities.

For further information, please refer to [www.dlapiper.com](http://www.dlapiper.com)

Copyright © 2014 DLA Piper. All rights reserved.

If you would like to reproduce any of this publication, please contact Michael Regos on +61 3 9274 5437 or [michael.regos@dlapiper.com](mailto:michael.regos@dlapiper.com).

[Doc ID: 1202034037]