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JUDGMENTS

Queensland

25 July 2014 (published 8 August 2014) - *Cotterell v Redcliffe Assembly* [2014] QCAT 357

The applicant resides at Peninsula Palms Retirement Village and was concerned about how the operator of the village, Redcliffe Assembly, prepared its annual budget.

The applicant firstly claimed that a number of items on the budget list are not 'general services' under the Act and residents should not be required to pay for them. The Tribunal agreed with the applicant that 'Advertising and Promotions' and 'Subscriptions and Professional Fees' are not general services supplied or made available to residents. Although residents may indirectly benefit from staff attending seminars, the costs of education should fall upon the employer or the staff member receiving education because they are the primary beneficiaries. Accordingly, the Tribunal ordered that these items be removed from future budgets. By contrast, 'staff sickness and accident insurance' was considered a general service because the village needed staff to operate.

The applicant also claimed that the budget was not sufficiently transparent. As a result, she claimed that the budget was likely to include costs associated with co-located facilities, which was a financial burden that should not be placed on the residents. The Tribunal noted that an object of the Act is disclosure of information to residents and ordered that future budgets must demonstrate that any anticipated costs associated with non-village facilities are excluded. Further to ensuring that budgets are transparent, the Tribunal also ordered that future budgets must state whether there is a more cost-effective alternative to any annual general service charge.

12 June 2014 (published 8 August 2014) - *Cruceru v Medical Board of Australia* [2014] QCAT 353

Professions and trades – health care professionals – medical practitioners – licences and registration – other matters – where the Medical Board of Australia ('Board') renewed the applicant's registration and imposed a further condition on the registration – where the Board imposed a condition in almost the precise term as proposed by the applicant – where the applicant applied for a stay of the Board's decision – where the applicant contends the condition is not necessary or desirable in the circumstances – where the applicant's inability to practice may affect the applicant's wife's life expectancy - whether a stay is desirable after having regard to the interests of anyone affected by the decision, the submission of the respondent and the public interest.

New South Wales (NSW)

14 August 2014 - *Crook v Health Care Complaints Commission (No 2)* [2014] NSWCATOD 91

A registered nurse applied to the NSW Civil and Administrative Tribunal to have a number of expired conditions removed from her registration record (the application). These conditions were imposed by a Professional Standards Committee (PSC) upon referral from the Health Care Complaints Commission.

The primary question for the Tribunal was whether it was necessary for the nurse's professional association (the Council) or any other body to review the expired conditions in order for them to be removed from her record.

When making its order, the Committee did not nominate the body responsible to review the conditions at any time whilst the conditions applied, or on their expiration. The Tribunal concluded that if an order made by a PSC fails to nominate an appropriate review body, then only the Council (or its equivalent) can review the order imposing the conditions.

In the course of its decision, the Tribunal also suggested that PSCs or adjudication bodies imposing conditions on a practitioner's registration need to ensure that the conditions are drafted properly, are enforceable and provide a mechanism for review upon the conditions' expiry. This case reinforced that AHPRA, the public and practitioners will be assisted if an adjudication body clearly specifies at the conclusion of proceedings what is required to be recorded on the register.

14 August 2014 - [Bindah v Carter Holt Harvey Woodproducts Australia Pty Ltd \[2014\] NSWCA 264](#) Workers compensation - entitlement to compensation - whether the Appeal Panel of the Workers Compensation Commission wrongly determined liability and causation in the place of an arbitrator - whether the matter was capable of referral to an approved medical specialist under s 321 of the *Workplace Injury Management and Workers Compensation Act 1998* (NSW) - whether the arbitrator characterised the injury as a "frank injury" or as an exacerbation or aggravation of a pre-existing condition - whether the Appeal Panel erred in failing to address s 323 of the Act.

14 August 2014 - [Re W and L \(Parameters of Protected Estate Management Orders\) \[2014\] NSWSC 1106](#). Mental health - Guardians, committees, administrators, managers and receivers - appointment - application for appointment of a protected estate manager - application made in anticipation of personal injury compensation - protected person without other property - application adjourned until after resolution of compensation litigation.

13 August 2014 - [Macquarie International Health Clinic Pty Ltd v Sydney Local Health District/Sydney Local Health District v Macquarie Health Corporation Ltd \(No 5\) \[2014\] NSWSC 1105](#). Evidence - expert opinion - distinction between proof of assumed primary facts and knowledge relied upon - evidence Act 1995 (NSW), s 60.

13 August 2014 - [Health Care Complaints Commission v Edwards \[2014\] NSWCATOD 90](#) Professional discipline - medical practitioner - failure to comply with conditions of previous disciplinary order - professional misconduct - registration cancelled.

Commonwealth

14 August 2014 - [Pollentine v Bleijie \[2014\] HCA 30](#) Constitutional law – constitution, ch III – institutional integrity of State courts – section 18(1) of *Criminal Law Amendment Act 1945* (Q) allowed trial judge to direct two or more medical practitioners to inquire as to mental condition of person found guilty of offence of sexual nature committed upon or in relation to child – Where medical practitioners report that offender is incapable of exercising proper control over offender's sexual instincts, s 18(3) allowed trial judge to declare offender to be so incapable and to direct offender to be detained in institution during Her Majesty's pleasure – section 18(5) required offender to be detained and not to be released until Governor in Council satisfied on report of two legally qualified medical practitioners that it is expedient to release offender – plaintiffs found guilty of committing sexual offences against children – plaintiffs declared to be incapable of exercising proper control over sexual instincts – plaintiffs detained in institution at Her Majesty's pleasure – whether s 18 repugnant to or incompatible with institutional integrity of State courts.

Victoria

11 August 2014 - [Psychology Board of Australia v Greco \(Review and Regulation List\) \[2014\] VCAT 940](#) *Health Professions Registration Act 2005* s 77 – *Health Practitioner Regulation National Law* s 196 – psychological services to victims of crime – whether misleading advertising, misleading as to role, inappropriate publishing of information, inappropriate online information gathering, preparing psychological reports on basis of short interview, agreeing to remuneration from referral to lawyer, breaching client confidentiality, inappropriate provision of psychological services, failure to arrange or provide timely treatment, providing psychological services where another psychologist or clinical social worker already providing services, over-servicing, over-charging, failure to comply with registration conditions, failure to co-operate with Psychology Board of Australia – whether unprofessional conduct and/or professional misconduct.

LEGISLATION

Australian Capital Territory

7 August 2014 - [Drugs of Dependence \(Cannabis Use for Medical Purposes\) Amendment Bill 2014](#).

Commonwealth

7 August 2014 - [Private Health Insurance \(Prostheses\) Rules 2014 \(No. 2\)](#).

REPORTS

Australia. Department of Health & Ageing

Media releases

14 August 2014 - [more support for patients with prostate cancer](#).

Private Health insurance (PHI) Circulars

11 August 2014 - [PHI 50/14 Changes to second-tier eligible hospitals](#).

8 August 2014 - [PHI 49/14 Private health insurers' second tier default benefit rates annual audit](#).

8 August 2014 - [PHI 48/14 New Version \(version 1.11.0.2\) of check-it 2 released](#).

8 August 2014 - [PHI 47/14 Private hospital information - name change, status from same-day to overnight and address change](#).

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

14 August 2014 - We have new homepages! We hope to improve customer experience for all our users. [Read more](#).

13 August 2014 - The National Nursing & Midwifery Board has released its quarterly registration data. The National Board has released its quarterly registration data. [Read more](#).

13 August 2014 - The Psychology Board of Australia has released the July 2014 communiqué. [Read more](#).

12 August 2014 - The National Board has published its July communiqué. [Read more](#).

12 August 2014 - Call for applications for appointments to Chiropractic Board; health performance and professional standards hearings panels and advisors. [Read more](#).

11 August 2014 - Certificate of Registration Status (CoRS) now available online Registered health practitioners using the AHPRA portal can now request a Certificate of Registration Status (CoRS) online. [Read more](#).

11 August 2014 - The Physiotherapy Board of Australian and the Physiotherapy Board of New Zealand have released their second communicate on their joint project to develop shared entry level qualifying statements for the physiotherapy profession. [Read more](#)

11 August 2014 - The Physiotherapy Board releases its latest newsletter. [Read more](#).

8 August 2014 - The National Board has released its quarterly registration data. [Read more](#).

8 August 2014 - Board nominee for Director of Optometry Council of Australia (OCANZ). The National Board is interested in receiving applications from suitably qualified optometrists for the role of Director of the OCANZ Board that is nominated by the Board. [Read more](#).

Australia. National Health & Medical Research Council

8 August 2014 - [NHMRC Research Tracker](#).

Australia. Therapeutic Goods Administration (TGA)

14 August 2014 - [Consultation: Invitation for public comment - ACMS and joint ACCS/ACMS meetings, November 2014](#). Notice inviting public submissions under Regulation 42ZCZK of the *Therapeutic Goods Regulations 1990*. Closing date: 11 September 2014.

12 August 2014 - [Low value turnover application forms](#). Added 2014-2015 low value turnover declaration for new products.

12 August 2014 - [Advisory Committee on the Safety of Vaccines \(ACSOV\)](#). Updated ACSOV contact details.

12 August 2014 - [EU DCP: International collaboration for the evaluation of generic drugs](#). The TGA has agreed, in principle, to participate in a pilot of the Decentralised Procedure (DCP) of the European Union, a collaboration on the evaluation of generic drug applications.

12 August 2014 - [Australian Public Assessment Reports for prescription medicines \(AusPARs\)](#) Added Bimatoprost (Latisse).

12 August 2014 - [Advisory Committee on the Safety of Medicines \(ACSOM\)](#). Updated ACSOM contact details.

11 August 2014 - [Request to transfer the sponsorship of an ARTG entry](#). Updated contact details on the Request to transfer sponsorship forms.

8 August 2014 - [ACB meeting statement, Meeting 4, 24 July 2014](#). Advisory Committee on Biologicals meeting statement.

Australian Institute of Health & Welfare

15 August 2014 - [Arthritis and other musculoskeletal conditions among Australia's most costly diseases](#).

13 August 2014 - [Death rates for respiratory conditions declining](#).

12 August 2014 - [More than 100,000 Australians received alcohol and other drug treatment services in 2012–13](#).

11 August 2014 - [More staff provide primary health-care services to Indigenous Australians](#).

Australian Commission on Safety and Quality in Health Care

11 August 2014 - On the Radar – Issue 186 ([PDF 122KB](#)) ([Word 143KB](#)).

Australian Capital Territory. Health Directorate

12 August 2014 - [Former Canberran of the year appointed as Chair of Mr Fluffy Community and Expert Reference Group](#).

New South Wales. Ministry of Health

Media Releases

11 August 2014 - [Over five thousand smokers fined across NSW for lighting up in public places](#).

Policy Directives & Guidelines

13 August 2014 - [Executive Performance Management](#).

11 August 2014 - [Work health and safety - limiting staff exposure to ionising radiation](#).

Information Bulletins

13 August 2014 - [Notification of Obsolete Policy Directive - PD2006_035](#).

Northern Territory. Department of Health

12 August 2014 - [First paediatric dental clinic opens in Casuarina](#).

Queensland. Department of Health

13 August 2014 - [Over-prescribing of antibiotics to be examined](#). The Australian Research Council has approved a grant of \$172,117 for research on the implications of over-prescribing antibiotics.

South Australia. Department for Health & Ageing

8 August 2014 - [New Keith Evans theatre opens at The Queen Elizabeth hospital](#).

Victoria. Department of Health

12 August 2014 - [Coalition delivers Box Hill hospital redevelopment](#). Melbourne's eastern suburbs will benefit from improved, innovative health care as part of the Box Hill Hospital redevelopment project, Premier Denis Napthine announced today.

12 August 2014 - [Victoria's first Mental Health Complaints Commissioner officially open for business](#). Victoria's Mental Health Complaints Commissioner was officially launched today by Minister for Mental Health Mary Wooldridge.

10 August 2014 - [Coalition delivers funding boost for hospitals](#). The budget bottom lines of Victoria's public hospitals have increased by an average of 5.1 per cent over last year, Minister for Health David Davis said today.

Western Australia (WA). Department of Health

Media Releases

13 August 2014 - [Research under way at Fiona Stanley hospital](#).

Operational Directives (OD)

14 August 2014 - [OD 0547/14](#). Chief Procurement Officer to Review All Proposed Engagements for Professional Consultancy Services in WA Health Valued Over \$50,000 Outlines the new process and requirements to be followed for engagements of professional consultants valued over \$50,000.

14 August 2014 - [IC 0194/14](#) Health Services Union: health professional, administrative, clerical, technical and supervisory staff – 2.75% Salary Increase.

New Zealand (NZ). Ministry of Health

10 August 2014 - [Targeted screening for Ebola at airport but risk to NZ very low](#).

United Kingdom (UK). Department of Health (DH)

14 August 2014 - [Antimicrobial Resistance \(AMR\): information and resources](#).

14 August 2014 - [Review of radiation dose issues from the use of CT in the UK](#). Part of a collection: [COMARE reports](#).

14 August 2014 - [DH workforce information: 2014](#). Part of a collection: [DH monthly workforce data](#).

13 August 2014 - [Mutuals in health: Pathfinder Programme](#).

13 August 2014 - [British organisations contribute to global mHealth development](#).

13 August 2014 - [SaBTO Annual Report 2013 to 2014](#).

13 August 2014 - [Viral haemorrhagic fever: ACDP algorithm and guidance on management of patients](#) Part of a collection: [Ebola virus disease: clinical management and guidance](#).

12 August 2014 - [DH business expenses for 2013 to 2014](#) Part of a collection: [DH business expenses](#).

12 August 2014 - [DH senior officials international travel: 2013 to 2014](#).

11 August 2014 - [Department of Health: Honours nomination form and guidance](#).

9 August 2014 - [UK to send National Health Service \(NHS\) medics to help those injured by Gaza crisis](#).

8 August 2014 - [DH and NHS BSA framework agreement](#).

8 August 2014 - [PHE reaffirms commitment to supporting Ebola outbreak response but risk remains low in England](#).

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

13 August 2014 - [HHS Secretary Burwell and education secretary Duncan announce new grant competition to increase access to high-quality preschool](#).

13 August 2014 - [Secretary Burwell further strengthens HHS management team](#).

British Medical Association (BMA)

14 August 2014 - [GP inspection scheme raises blame culture fears](#). A new 'special measures' GP inspection system must not create an unfair blame culture..

14 August 2014 - [Call to focus drugs debate on medical treatment](#). The BMA has reaffirmed its belief that doctors must be integral to the drugs policy debate.

11 August 2014 - [Manifesto boost for minimum alcohol pricing](#). MPs have echoed BMA calls for a minimum alcohol price as part of a national manifesto.

11 August 2014 - [BMA demands protection of medical personnel in Gaza](#) The BMA has written to the Israeli prime minister to express 'grave concerns.'

8 August 2014 - [Help health education reach the developing world](#). Doctors with links to developing countries are being urged to apply to a BMA fund.

Canadian Medical Association (CMA)

15 August 2014 - [E-cigarette ban proposed in Toronto](#). CMAJ The city's Medical Officer of Health Dr. David McKeown issued a report ... similar to restrictions in other jurisdictions in Canada.

American Medical Association (AMA)

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

13 August 2014 - [Resource offers strategies to prevent hospital infections](#).

12 August 2014 - [Four common misconceptions patients have about their insurance](#).

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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