

HEALTH ALERT

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JUDGMENTS

New South Wales

2 May 2014 - *Health Care Complaints Commission v Qasim* [2014] NSWCATOD 42

This was a complaint referred to the New South Wales Civil and Administrative Tribunal alleging the conduct of a specialist endocrinologist amounted to unsatisfactory professional conduct and professional misconduct. It was also alleged the doctor suffered from an impairment and was not competent to practise professionally. The doctor denied all aspects of the complaint.

The Tribunal found the doctor demonstrated a number of bizarre and abnormal behaviours in the course of her professional practice. She wrote reports and letters to referring general practitioners in which she made adverse comments about other treating practitioners, patients and refused to treat patients. She failed to make referrals when she had told patients that they had been made. Her reports generally lacked clarity in recommendations regarding diagnosis and therapy.

The Tribunal found that this amounted to unsatisfactory professional conduct and professional misconduct. The Tribunal also accepted, based on expert evidence, that the doctor suffers from a serious psychiatric disorder on a paranoia spectrum and that this constituted an impairment of a nature that renders her not competent to practise.

As the Tribunal formed the view that it is unlikely, at least for a significant period of time, that the doctor will change her conduct or get to a position in which she is competent, it ordered that the doctor's health practitioners registration be cancelled and that the doctor is not permitted to make an application for re-registration or review for a period of four years.

29 April 2014 - *Health Care Complaints Commission v Perceval* [2014] NSWCATOD 38

Unsatisfactory professional conduct and professional misconduct. Where it is asserted the practitioner breached conditions imposed on her registration. Where practitioner concedes some breaches. Whether conditions properly drafted - held wording of conditions imprecise; that practitioner's conduct in breaching some conditions established unsatisfactory professional conduct and professional misconduct. Impairment - Conflict in expert evidence - Held - Impairment is established. Unfit to practise - complaint established.

29 April 2014 - *Bova v Health Care Complaints Commission* [2014] NSWCATOD 40

Application - Summons. Whether access to documents should be denied as irrelevant to an appeal, nature of an appeal under s 159 of the *Health Practitioner Regulation National Law*, whether applicant has demonstrated genuine forensic purpose, whether Council deliberations inadmissible under s 129 or s 130 of the *Evidence Act 1995*. Whether documents attract legal professional privilege under s 118, of the *Evidence Act*. Held - Applicant has not satisfied onus that documents relevant or genuine forensic purpose established.

24 April 2014 - *Janet Harris v Sydney Local Health District (No. 2)* [2014] NSWDC 41

Application for special costs order dismissed; Offer of compromise, indemnity costs.

Queensland

17 April 2014 - *Wolverson v Todman; Wolverson v Lisle & Ors* [2014] QDC 83.

This was an application made to the Queensland District Court for orders extending the limitations periods relating to the applicant's claims for damages.

The damages claims alleged negligence against a neurologist for his treatment from 1991 - 2009 and four radiologists in their reading of MRI scans in 2007 for failing to diagnose a Chiari Type 1 Malformation, which the applicant alleged resulted in her suffering symptoms that could have been successfully treated had she been properly diagnosed.

An action for damages must commence within three years of the date on which the damage occurs. Both actions were out of time. The applicant was previously granted leave on 27 May 2010 to file proceedings subject to an undertaking she make all reasonable and genuine attempts to procure an independent specialist report within six months. The applicant failed to commence proceedings and now applies to have

the order extended, arguing that an expert report on 8 January 2014 demonstrated a causal link between the misdiagnosis and the alleviation of her symptoms which were previously unknown.

The Court dismissed the application as it was of the opinion that the delay in obtaining relevant specialist's reports was excessive. Had the applicant taken reasonable steps to obtain a specialist report, she would have obtained knowledge of the causation evidence earlier. The Court was also of the opinion that the applicant could still not establish a worthwhile cause of action on the available evidence.

Tasmania

30 April 2014 - [Varga v Mandapati \[2014\] TASSC 25](#)

Procedure – Supreme Court Procedure – Tasmania – Practice under Rules of Court – Commencement of proceedings: Originating process – Renewal of writ in medical negligence claim – Whether good reason shown.

Western Australia

23 April 2014 - [Popovic v Panagoulas \[2014\] WASCA 86](#)

Practice and procedure - Extension of validity of writ for service in a medical negligence claim - Rules of the Supreme Court 1971 (WA), O 7 r 1 - Order extending validity made ex parte - Whether primary judge excluded hardship or prejudice to defendant arising from events occurring prior to expiration of period for service.

United Kingdom

11 April 2014 - [O'Callaghan v Dowling \[2014\] IEHC 211](#)

Was the defendant in breach of his duty to the plaintiff in proceeding with the surgery without SEP? SEP is a form of monitoring the sensory responses in the spinal cord during surgery which would enable the surgeon to be alert to injury in the spinal cord during the procedure. If SEP should have been used, the defendant should only have done the surgery in a hospital which had it.

LEGISLATION

23 April 2014 - [FMA Act Determination 2014/07 — Section 32 \(Transfer of Functions from Health to Social Services\)](#).

14 April 2014 - [National Health \(Efficient Funding of Chemotherapy\) Special Arrangement Amendment Instrument 2014 \(No. 4\) \(No. PB 31 of 2014\)](#).

11 April 2014 - [Therapeutic Goods Information \(Sharing of Committee Information\) Specification 2014](#)

11 April 2014 - [Therapeutic Goods Information \(Information about Advisory Committee Meetings\) Specification 2014](#).

29 April 2014 - [Private Health Insurance \(National Joint Replacement Register Levy\) Amendment Rules 2014 \(No. 1\)](#).

19 April 2014 - [National Health \(Highly specialised drugs program for hospitals\) Special Arrangement Amendment Instrument 2014 \(No. 4\) \(No. PB 30 of 2014\)](#).

24 April 2014 - [Therapeutic Goods \(Medical Devices\) Amendment \(Joint Replacements\) Regulation 2014](#).

24 April 2014 - [Statement of Principles concerning mitral valve prolapse No. 43 of 2014](#).

24 April 2014 - [Statement of Principles concerning acute stress disorder No. 42 of 2014](#).

24 April 2014 - [Statement of Principles concerning acute stress disorder No. 41 of 2014](#).

24 April 2014 - [Statement of Principles concerning Hodgkin's lymphoma No. 36 of 2014](#).

24 April 2014 - [Statement of Principles concerning Hodgkin's lymphoma No. 35 of 2014](#).

24 April 2014 - [Statement of Principles concerning otitis media No. 52 of 2014](#).

24 April 2014 - [Statement of Principles concerning otitis media No. 51 of 2014](#).

24 April 2014 - [Statement of Principles concerning atrial fibrillation and atrial flutter No. 50 of 2014](#).

24 April 2014 - [Statement of Principles concerning chronic myeloid leukaemia No. 48 of 2014](#).

24 April 2014 - [Statement of Principles concerning chronic myeloid leukaemia No. 47 of 2014](#).

24 April 2014 - [Statement of Principles concerning pleural plaque No. 46 of 2014](#).

24 April 2014 - [Statement of Principles concerning pleural plaque No. 45 of 2014](#).

24 April 2014 - [Statement of Principles concerning mitral valve prolapse No. 44 of 2014](#).

24 April 2014 - [Statement of Principles concerning malignant neoplasm of the thyroid gland No. 40 of 2014](#).

24 April 2014 - [Statement of Principles concerning malignant neoplasm of the thyroid gland No. 39 of 2014](#).

24 April 2014 - [Statement of Principles concerning chronic obstructive pulmonary disease No. 38 of 2014](#).

24 April 2014 - [Statement of Principles concerning chronic obstructive pulmonary disease No. 37 of 2014](#).

24 April 2014 - [Amendment Statement of Principles concerning non-Hodgkin's lymphoma No. 57 of 2014](#).

REPORTS

Australia. Department of Health & Ageing

Media releases

1 May 2014 - [Address to the George Institute for Global Health](#). Minister for Health, Peter Dutton's address to the George Institute for Global Health on 1 May 2014.

30 April 2014 - [\\$11.4 Million for Health and Medical Research](#). Australian researchers who have formed community partnerships to improve health outcomes across Australia have received \$11.4 million in Federal Government funding.

28 April 2014 - [Opening of the Centre for Personalised Immunology at the Australian National University](#). The Assistant Minister for Health, Fiona Nash opened the Centre for Personalised Immunology at the Australian National University on 28 April 2014.

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

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

29 April 2014 - The Australian Health Ministers' Advisory Council (AHMAC) has now published the terms of reference for the three-year review of the National Registration and Accreditation Scheme (National Scheme). [Read More](#).

30 April 2014 - AHPRA and the Medical Board of Australia welcome settlement of long-running case The Australian Health Practitioner Regulation Agency (AHPRA) and the Medical Board of Australia today welcomed the conditional settlement of the class action arising from the criminal conduct of Dr James Latham Peters. [Read More](#).

1 May 2014 - Australia's health ministers have appointed Michael Gorton AM as Chair of the Agency Management Committee, a position he will hold until September 2015. [Read More](#).

2 May 2014 - Have your say! Seven National Boards are consulting on important standards and guidelines. The Chiropractic, Osteopathy, Medical, Pharmacy and Physiotherapy Boards are consulting on their core

registration standards and the Nursing and Midwifery Board of Australia is currently consulting on the Safety and quality framework for midwives and will be consulting on the core registrations standards soon. Of the core registration standards, the Psychology Board of Australia is consulting on the continuing professional development and recency of practice only at this stage. [Read More](#).

Australia. National Health & Medical Research Council

30 April 2014 - [\\$11.4 Million for Health and Medical Research](#). Australian researchers who have formed community partnerships to improve health outcomes across Australia have received \$11.4 million in Federal Government funding. Minister for Health Peter Dutton said the grants further demonstrated the Government's commitment to frontline services, including health and medical research in Australia. "Jointly funded by the National Health and Medical Research Council (NHMRC) and various partners, the funding supports 14 new Partnerships for Better. [See full media release](#).

NHMRC Research Tracker - 2 May 2014

Australia. Therapeutic Goods Administration

2 May 2014 - [Maxman II capsules](#) pose a serious risk to your health and should not be taken.

2 May 2014 - [Ying Dao Di capsules](#) pose a serious risk to your health and should not be taken.

1 May 2014 - [Medical Devices Safety Update, Volume 2, Number 3, May 2014](#). May 2014 edition of the Medical Devices Safety Update

1 May 2014 - [Medical devices reforms](#) Added information on IVD medical devices reforms.

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

30 April 2014 - [ACMD meeting statement, Meeting 14, 14 March 2014](#) 30 April 2014: Advisory Committee on Medical Devices meeting statement

29 April 2014 - [Therapeutic goods information specifications](#). Added links to the Therapeutic Goods Information (Sharing of Committee Information) and (Information about Advisory Committee Meetings) Specification 2014.

29 April 2014 - [Joint reclassification advice: Transition timeframe extended to June 2015](#). 24 April 2014, a regulatory amendment was enacted to extend the transition period by one year to 30 June 2015.

29 April 2014 - [Laparoscopic power morcellators](#). The US Food and Drug Administration (FDA) has published a safety communication advising against the use of laparoscopic morcellators during certain uterine surgery procedures in patients with fibroids.

29 April 2014 - [Craniomaxillofacial Distraction System - BC Distractor Body](#). Synthes Australia is issuing a hazard alert for its BC Distractor Body, a component of the Craniomaxillofacial (CMF) Distraction System.

28 April 2014 - [TGA tenders](#). Advice that a Request for Tender for a new Therapeutic Goods Assessment and Advisory Services Panel has recently been published on AusTender.

28 April 2014 - [Report a medical device adverse event \(medical device user\)](#). Updated word and pdf forms to include TGA and Medsafe privacy information.

24 April 2014 - [Otto Bock A200, Skippi and Skippi Plus power wheelchairs](#). Recall for product correction - potential for front wheels to break.

24 April 2014 - [Xyntha 500IU dual-chamber syringe - batch number H19478](#). Consumers and health professionals are advised that Pfizer Australia, in consultation with the TGA, is recalling one batch of its Xyntha 500IU dual-chamber syringe.

22 April 2014 - [Accu-Chek Mobile glucose tests](#). There is a potential for a commonly used antibiotic to interfere with blood glucose test results.

Australian Institute of Health & Welfare

30 April 2014 - [Australian hospital statistics 2012-13 Australia's hospitals at a glance 2012-13 | online version media release](#).

1 May 2014 - [Cervical screening in Australia 2011-2012 | media release](#).

29 April 2014 - [Incidence of insulin-treated diabetes in Australia 2000-2011 | media release](#).

Australian Commission on Safety and Quality in Health Care

28 April 2014 - On the Radar – Issue 171 ([PDF 179KB](#)) ([Word 694KB](#)).

21 April 2014 - On the Radar – Issue 170 ([PDF 171KB](#)) ([Word 213KB](#)).

Australian Capital Territory (ACT). Health Directorate

27 April 2014 - [Possible Death Cap Mushroom Poisoning](#). ACT Health is currently investigating 3 possible cases of death cap mushroom poisoning.

28 April 2014 - [Death Cap mushrooms not from Woolworths](#). New investigations by ACT Policing have found no evidence that Death Cap mushrooms were purchased from Woolworths Dickson.

New South Wales. Ministry of Health

Media Releases

1 May 2014 - [Essentials of Care Showcase](#).

Information Bulletins

24 April 2014 - [Medical Speciality Coding in StaffLink](#).

Northern Territory. Department of Health

30 April 2014 - [Robyn Lambley - Alcohol mandatory treatment expands in Katherine](#). The Country Liberals Government has chosen a site for a new multi-million dollar Alcohol Mandatory Treatment facility in Katherine, as part of its plan to tackle alcohol abuse across the Northern Territory.

Queensland. Department of Health

2 May 2014 - [New cardiac catheter lab for Logan](#). A new cardiac catheter laboratory will be built at Logan Hospital, allowing local residents with heart conditions to be diagnosed and treated closer to home.

2 May 2014 - [Easier access to medical and disability aids](#). Metro South Hospital and Health Service (MNHHS) is providing Queenslanders with a disability greater access to medical and disability aids and equipment.

30 April 2014 - [World first study into gestational diabetes](#). A world first study at Mater Mothers' Hospital and the Royal Brisbane and Women's Hospital will study the effects of probiotics on gestational diabetes.

29 April 2014 - [Queensland welcomes recommended changes to cervical screening program](#). The Queensland Government has welcomed proposed changes to the National Cervical Screening Program.

27 April 2014 - [QLD Nurse pay-packets boosted this week](#). Queensland Health's over 32,000 public nurses and midwives have this week received their final instalment of an almost 10% pay increase since the Newman LNP government was elected to office just over two years ago.

South Australia. Department for Health & Ageing

2 May 2014 - We'll start at \$6, now I hear \$15, how far will the Liberal GP Tax auction go Hon Jack Snelling MP Credit cards will replace Medicare cards as the card of choice next time South Australians get sick after yesterday's release of the Federal Government's Commission of Audit. [Read more](#).

1 May 2014 - Phillip Kennedy Centre turns down Government funding Hon Jack Snelling MP Health Minister Jack Snelling has expressed his disappointment that the Board of Southern Cross Care (SA&NT) has advised him today that they have decided to cease the hospice service at the Phillip Kennedy Centre. [Read more](#).

24 April 2014 - New medical imaging equipment for country South Australians. Hon Jack Snelling MP Country residents are benefiting from a \$2.6 million investment in specialised x-ray and imaging equipment across rural areas of South Australia. [Read more.](#)

Victoria. Department of Health

30 April 2014 - [Hospital capacity grows by more than 500](#). The Victorian Coalition Government has grown Victorian public hospital capacity by 520 since it was elected, Minister for Health David Davis said today.

30 April 2014 - [Growing jobs from our world-class health system](#). Deputy Premier and Minister for State Development Peter Ryan and Minister for Health David Davis today released a new \$17.8 million plan to boost exports and jobs in Victoria's world-leading health sector.

29 April 2014 - [\\$73 million expansion for Latrobe Regional Hospital](#). The Victorian Coalition Government is building a healthier Victoria by investing \$73 million in a major redevelopment of Latrobe Regional Hospital, Deputy Premier Peter Ryan announced today.

28 April 2014 - [\\$4 million for new unit to help mums beat addiction](#). The Victorian Coalition Government will invest \$4 million in the 2014-2015 Victorian State Budget to build a new 4-bed residential unit to help new mothers beat drug or alcohol addiction.

28 April 2014 - [Historic investment to tackle ice use across Victoria](#). The Victorian Coalition Government will invest \$34 million over four years in this year's State Budget to expand drug and alcohol treatment services and tackle the use of illicit drugs including ice.

28 April 2014 - [\\$2 million funding package to drive down seclusion and restraint at mental health services](#). The Victorian Coalition Government is investing in a package of more than \$2 million to drive down the rates of seclusion and restraint of patients in clinical mental health facilities across the State, Minister for Mental Health Mary Wooldridge said today.

26 April 2014 - [\\$550 million for world-class ambulance helicopters](#). Victorians will have a new fleet of state-of-the-art helicopters from January 2016 thanks to an estimated \$550 million Victorian Coalition Government investment, Minister for Health David Davis said today.

Western Australia (WA). Department of Health

Media Releases

30 April 2014 - [National report shows WA hospitals performing well](#).

2 May 2014 - [First birthday for Albany Health Campus](#).

[Read Healthview Autumn 2014 \(PDF 2.58MB\)](#)

New Zealand. Ministry of Health

2 May 2014 - [Enrolling Babies at Birth](#).

1 May 2014 - [Psychoactive substances regulatory action taken](#).

28 April 2014 - [SPARX e-therapy for young people launched](#).

28 April 2014 - [Maternity Tables 2011](#).

United Kingdom. Department of Health

1 May 2014 - [World Dementia Council meets for the first time](#).

1 May 2014 - [Lyme disease clinic update](#).

1 May 2014 - [Green light for investment in new hospital in Brighton](#).

1 May 2014 - [New hospital to be built in Cambridge](#).

30 April 2014 - [Launch of the new Health and Care Partnership](#).

28 April 2014 - [Medical innovation: doctors and patients encouraged to give views](#).

United States of America. Department of Health & Human Services

1 May 2014 - [Observing Asian American and Pacific Islander Heritage Month](#).

1 May 2014 - [Enrollment in the Health Insurance Marketplace totals over 8 million people](#).

29 April 2014 - [2014 National Alzheimer's Disease Plan Available](#).

Australian Medical Association (AuMA)

1 May 2014 - [Commission of Audit recommends health system run by bean counters](#). AuMA President, Dr Steve Hambleton, said today that the health recommendations proposed by the Commission of Audit would put health, medical and pharmaceutical care out of reach for Australian families [Read more](#).

1 May 2014 - [AIHW report confirms continuing decline in public hospital capacity](#). The latest *Australian Hospital Statistics 2012-13* report from the Australian Institute of Health and Welfare (AIHW) shows a continuing decline in public hospital capacity. [Read more](#).

30 April 2014 - [New President for AuMA Northern Territory](#). Associate Professor Robert Parker has been elected as the new President of AuMA NT. He replaces Dr Peter Beaumont, who has served in the role with distinction for the past two years. [Read more](#).

British Medical Association (BMA)

26 April 2014 - [Call to stop mental health cuts](#). Medical students have demanded an end to mental health cuts and an end to the stigma of patients with mental healthcare problems.

Time to scrap the *Health and Social Care Act 2012* Sign the BMA's petition to repeal the Act and reverse the damage it has done to the NHS in England. [More information](#).

Canadian Medical Association

29 April 2014 - [Number of physician assistants rising, PA association says](#). The number of physician assistants (PA) working in Canada has undergone a "dramatic increase."

25 April 2014 - [End-of-life town hall: "We're here to talk about one of the most important issues of our time."](#)

American Medical Association (AMA)

24 April 2014 - [AMA Supports FDA's Efforts to Regulate E-Cigarettes, Additional Tobacco Products](#). "The American Medical Association (AMA) supports the U.S. Food and Drug Administration (FDA) for its new effort to regulate additional tobacco products, including electronic cigarettes, cigars, and hookahs."

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

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