

HEALTH ALERT

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JUDGMENTS

Victoria

27 August 2014 - *Finding of Inquest into the Death of Robert Vivian Hawkins* COR 2010/0520

In February 2010, the deceased underwent surgical removal of a moderately large localised tumour in his kidney at Wodonga Hospital. During the course of the surgery, the superior mesenteric artery (SMA) was inadvertently divided instead of the left renal artery. The urologist proceeded, unaware of this misidentification. Mr Hawkins consequently suffered a cardiac arrest and a significant reduction in blood supply to his bowel. As there was no Intensive Care Unit (ICU) at Wodonga Hospital, he was transferred to the Albury Base Hospital ICU and then to St Vincent's Hospital in Melbourne, where he underwent open surgery.

The Coroner considered respectively whether or not open surgery should have occurred earlier, and whether or not the SMA should have been re-vascularised earlier. The Coroner made no criticism of the treating practitioners in respect of both issues.

Thirdly, the Coroner discussed what constituted an adequate qualification to perform a laparoscopic nephrectomy. While a 'gold standard' such as requiring an history of performing a minimum of 40 procedures 'in a good institution' would be optimal, the Coroner accepted an expert witness' view that the appropriate qualification should be based on competency, rather than numbers.

Finally, the Coroner did not find an issue with the procedure being performed at Wodonga Hospital because there was no indication that ICU services would be required. However, she did express approval about the fact that since Mr Hawkins' death, all laparoscopic surgery has been transferred to Albury Hospital.

21 August 2013 - *Finding of Inquest into the Death of Neville Ross* COR 2009/5114

Mr Ross underwent an echocardiographic examination (echo) in 2009. After conducting a clinical examination and reviewing the echo, cardiologist Dr Oqueli diagnosed cardiac tamponade and arranged for Mr Ross to undergo CT-guided pericardiocentesis for both diagnostic and therapeutic reasons. The procedure was unsuccessful and Mr Ross consequently passed away. This inquest was conducted at the request of Mrs Ross, Mr Ross' widow.

While the Coroner made no formal recommendations, the findings of this inquest serve as a reminder to the medical profession of the importance of taking clear and contemporaneous notes.

The Coroner noted the unusual nature of the investigation that arose because Mrs Ross, the person advocating for the inquest, passed away before the inquest took place. Whilst she was not a clinician, all the correspondence from Mrs Ross demonstrated that she was very alert to her husband's health and wellbeing. On this basis, and in the absence of contemporaneous medical notes, the Coroner assigned significant weight to Mrs Ross' statement, even though she was unable to be cross-examined on it.

Had Dr Oqueli made contemporaneous notes of his consultation with Mr Ross, or shortly thereafter, the Court might have relied more heavily on his evidence. In other words, because of Dr Oqueli's delay in writing his notes, the Coroner assigned greater weight to the evidence of a lay person than to the evidence of a qualified medical practitioner.

Commonwealth

28 August 2014 - *Re Lien Tu Lu and Secretary, Department of Social Services* [2014] AATA 608
Social security – pensions – disability support pension – whether applicant's conditions were fully diagnosed, treated and stabilised – whether applicant's impairment is rated 20 points or more under the impairment tables – decision under review affirmed.

27 August 2014 - *Re Robert Davies and Secretary, Department of Social Services* [2014] AATA 604
Social security - disability support pension – psychiatric impairment - whether condition 'permanent' - whether condition fully diagnosed, treated and stabilised at relevant time – diagnosis for the purposes of Table 5 – 'appropriately qualified medical practitioner' – clinical psychologist.

South Australia

18 August 2014 (published 26 August 2014) - [Medical Board of Australia v Henning \[2014\] SAHPT 7](#)
Medical - complaint - alleged that the respondent engaged in professional conduct that was substantially below the standard reasonably expected of a registered health practitioner of an equivalent level and training or experience, namely professional misconduct.

LEGISLATION

Commonwealth

28 August 2014 - [Medibank Private Sale \(Interests in Shares\) Regulation 2014](#).

22 August 2014 - [Amendment Statement of Principles concerning non-Hodgkin's lymphoma No. 86 of 2014](#).

22 August 2014 - [Amendment Statement of Principles concerning non-Hodgkin's lymphoma No. 87 of 2014](#).

22 August 2014 - [Amendment Statement of Principles concerning diabetes mellitus No. 88 of 2014](#).

22 August 2014 - [Amendment Statement of Principles concerning diabetes mellitus No. 89 of 2014](#).

22 August 2014 - [Statement of Principles concerning peripheral neuropathy No. 75 of 2014](#).

22 August 2014 - [Statement of Principles concerning Creutzfeldt-Jakob disease No. 76 of 2014](#).

22 August 2014 - [Statement of Principles concerning Creutzfeldt-Jakob disease No. 77 of 2014](#).

22 August 2014 - [Statement of Principles concerning vascular dementia No. 78 of 2014](#).

22 August 2014 - [Statement of Principles concerning vascular dementia No. 79 of 2014](#).

22 August 2014 - [Statement of Principles concerning malignant neoplasm of unknown primary site No. 80 of 2014](#).

22 August 2014 - [Statement of Principles concerning malignant neoplasm of unknown primary site No. 81 of 2014](#).

22 August 2014 - [Statement of Principles concerning posttraumatic stress disorder No. 82 of 2014](#).

22 August 2014 - [Statement of Principles concerning posttraumatic stress disorder No. 83 of 2014](#).

22 August 2014 - [Statement of Principles concerning chronic lymphocytic leukaemia/small lymphocytic lymphoma No. 84 of 2014](#).

22 August 2014 - [Statement of Principles concerning chronic lymphocytic leukaemia/small lymphocytic lymphoma No. 85 of 2014](#).

22 August 2014 - [Statement of Principles concerning peripheral neuropathy No. 74 of 2014](#).

15 August 2014 - [National Health \(Listing of Pharmaceutical Benefits\) Amendment Instrument 2014 \(No. 9\) \(PB 61 of 2014\)](#).

15 August 2014 - [National Health Determination under paragraph 98C\(1\)\(b\) Amendment 2014 \(No. 8\) \(No. PB 62 of 2014\)](#).

21 August 2014 - [National Health \(Highly specialised drugs program for hospitals\) Special Arrangement Amendment Instrument 2014 \(No. 8\) \(No. PB 63 of 2014\)](#).

19 August 2014 - [National Health \(Efficient Funding of Chemotherapy\) Special Arrangement Amendment Instrument 2014 \(No. 8\) \(No. PB 64 of 2014\)](#).

15 August 2014 - [National Health \(Pharmaceutical Benefits - Early Supply\) Amendment Instrument 2014 \(No. 5\) - specification under subsection 84AAA\(2\) \(No. PB 69 of 2014\)](#).

REPORTS

Australia. Department of Health & Ageing

Media releases

27 August 2014 - [New Online Forums to Support People Living with Mental Illness](#). Support for people living with mental illness and their family, friends and carers is the focus of two new online forums launched by the Minister for Health, Peter Dutton.

27 August 2014 - [A strong, sustainable health system benefits rural and regional Australians](#). The Australian Government is determined to improve access to health services for people living in rural and remote areas.

27 August 2014 - [Hearing Care Industry Association Annual Parliamentary Breakfast](#). The Assistant Minister for Health, Fiona Nash represented the Prime Minister at the Hearing Care Industry Association Annual Parliamentary Breakfast on 27 August 2014.

24 August 2014 - [Australian Assistance to Control the Ebola Outbreak in West Africa](#). The Australian Government is contributing \$1 million to the World Health Organization (WHO) to help control the outbreak of Ebola in West Africa and prevent further spread of the disease.

Private Health insurance (PHI) circulars

26 August 2014 - [PHI 55/14 revoke public hospital information](#).

26 August 2014 - [PHI 54/14 Private Hospital Information – name change](#).

25 August 2014 - [PHI 53/14 New private same-day hospital information](#).

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

28 August 2014 - Nursing and Midwifery Board of Australia publishes revised FAQ for internationally qualified nurses and midwives. [Read more](#).

28 August 2014 - The Chinese Medicine Board of Australia invites practitioners, students and stakeholders of Chinese medicine to attend an information forum being held at RMIT University, Melbourne on Monday 22 September 2014. [Read more](#).

28 August 2014 - The Medical Board of Australia releases its latest newsletter. [Read more](#).

27 August 2014 - The National Boards have announced registration fees for their professions for 2014/15. [Read more](#).

25 August 2014 - AHPRA and the Nursing and Midwifery Board to run Twitter chat AHPRA and the Nursing and Midwifery Board are running a Twitter chat to discuss registration requirements for internationally qualified nurses & midwives (IQNMs). [Read more](#).

Australia. National Health & Medical Research Council (NHMRC)

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

Australia. Therapeutic Goods Administration (TGA)

29 August 2014 - [Claw and Claw II plates - used in foot surgery](#). Consumers and health professionals are advised that Wright Medical Australia has issued a hazard alert regarding specific lots of its Claw and Claw II plates.

27 August 2014 - [Submissions received: Review of the low value turnover exemption scheme](#). Submissions received in relation to the review of the low value turnover exemption scheme.

25 August 2014 - [Advisory Committee on Complementary Medicines \(ACCM\)](#). Meeting scheduled for 5 September 2014 has been cancelled.

25 August 2014 - [Australian Public Assessment Reports for prescription medicines \(AusPARs\)](#). Added Sorafenib (Nexavar), Adalimumab (Humira), Aflibercept (rhc) (Eylea) and Tenofovir disoproxil fumarate / emtricitabine / rilpivirine (Eviplera).

22 August 2014 - [TGA Industry Working Group \(IWG\)](#) Updated IWG membership and IWG meeting outcomes information.

22 August 2014 - [Orphan drugs](#) Added Bortezomib (VELCADE), Ivacaftor (Kalydeco), Sodium phenylbutrate (PHEBURANE) and Siltuximab (Sylvant).

22 August 2014 - [Consultation: Medicine labelling](#) The TGA is seeking comments from interested parties on four documents on the labelling of medicines. Closing date: 7 October 2014.

Australian Institute of Health & Welfare

29 August 2014 - [Transition care for older people leaving hospital: 2005-06 to 2012-13](#) | [media release](#).

Australian Commission on Safety and Quality in Health Care

25 August 2014 - [Addressing health literacy through a new national approach](#). Almost 60% of Australians have a low level of individual health literacy. This is important to the safety, quality and effectiveness of health care, according to the *National Statement on Health Literacy* (national statement) released today by the Australian Commission on Safety and Quality in Health Care (the Commission). Low levels of individual health literacy contribute to poorer health outcomes, increased risk of an adverse event and higher healthcare costs.

25 August 2014 - On the Radar – Issue 188 ([PDF 483KB](#)) ([Word 494KB](#)).

New South Wales (NSW). Ministry of Health

Media Releases

28 August 2014 - [New health training centre officially opened at Liverpool](#).

26 August 2014 - [Main works surge ahead for Forbes Hospital redevelopment](#).

25 August 2014 - [Children's cancer pioneer named NSW Outstanding Cancer Research of the Year](#).

25 August 2014 - [Westmead Hospital to offer publicly-funded adult cochlear implants for the first time](#).

Information Bulletins

28 August 2014 - [Public hospital \(training wage\) \(state\) award increase to rates of pay](#).

Northern Territory (NT). Department of Health

27 August 2014 - [Overwhelming support to get Indigenous health back on track](#).

27 August 2014 - [NT Government to discuss medical marijuana](#).

26 August 2014 - [Legislation introduced to ban smoking in cars with children](#).

Queensland. Department of Health

27 August 2014 - [New services for Gold Coast mums in a state-wide health plan](#). Gold Coast mothers are receiving vital care for their premature babies closer to home with the expansion of ante-natal services at the Gold Coast University Hospital.

27 August 2014 - [Immunisation rates now online](#). Data on current rates of immunisation for regions across Queensland will be published on the Government's health performance website from today.

26 August 2014 - [Ambulance tracking first in accountability](#). Queenslanders can now see exactly how many ambulances are available in their region and what their workload is, with a simple click of a computer mouse.

24 August 2014 - [Alliyah's care moves closer to home](#). A 14-month-old baby girl, Alliyah Broadby, who has spent most of her life in intensive care in Brisbane hospitals, will be moving closer to her home at Elanora under a plan developed by Gold Coast Hospital and Health Service and Mater Children's Hospital clinicians.

South Australia. Department for Health & Ageing

26 August 2014 - [Engineering our way to safer cancer biopsies](#). Cancer detection may soon become more sensitive and safer, thanks to electronic engineering expertise from Flinders University's Medical Device Partnering Program (MDPP).

Victoria. Department of Health

28 August 2014 - [Coalition Government to enable cannabis trials](#). The Victorian Coalition Government will amend the law in order to facilitate clinical trials of medical cannabis, Minister for Health David Davis said today.

Western Australia (WA). Department of Health

Operational Directives (OD)

28 August 2014 - [OD 0554/14](#) The Operation and Maintenance of Needle and Syringe Vending Machines (NSVMS) This operational directive applies to all individual sites invited by the Sexual Health and Blood-borne Virus Program (SHBBVP) to install and operate a needle and syringe vending machine (NSVM).

28 August 2014 - [OD 0553/14](#) Provision of Sterile Needles and Syringes from Rural and Regional Hospitals to People Who Inject Drugs This operational directive provides guidance to needle and syringe program health sites which fall under the mandate, as a means to provide access to sterile needles and syringes and support safer injecting practices in rural and regional areas. The intended health outcome is the prevention of blood-borne virus transmission and other injecting-related harms in rural and regional areas.

27 August 2014 - [OD 0552/14](#) Inter-Hospital Patient Transport Charges. This Operational Directive informs WA Health of St John Ambulance Western Australian Ltd's new pricing model for Inter Hospital Patient Transports across the state for 2014/15, effective from 1 July 2014.

27 August 2014 - [OD 0551/14](#) Baby Friendly Health Initiative – Hospital breastfeeding policy 2014 Baby Friendly Health Initiative - Hospital breastfeeding policy is a statewide policy for hospitals with maternity facilities in Western Australia. The aim of the policy is to encourage, promote and support exclusive breastfeeding in hospitals with maternity facilities.

27 August 2014 - [OD 0550/14](#) Annual Review of Health's Fees And Charges underpinned by Robust Costing Methods and Systems This directive advises accountable authorities of the requirement to conduct regular reviews (at least once a year) of their fees and charges. The review is to be underpinned by robust costing systems to ensure that such fees and charges do not over-recover the cost of providing the service.

New Zealand. Ministry of Health

29 August 2014 - [Mortality 2011 online tables](#).

United Kingdom. Department of Health

29 August 2014 - [Recommendations to improve National Health Service \(NHS\) hospital food](#).

29 August 2014 - [Establishing food standards for NHS hospitals](#).

28 August 2014 - [Ebola: government response](#).

28 August 2014 - [Thousands more patients to benefit from additional £160 million for cancer drugs](#).

27 August 2014 - [Supplying asthma inhalers to schools for emergency use](#).

27 August 2014 - [DDRB remit letter from the Department of Health](#).

26 August 2014 - [Guidance on overseas visitors hospital charging regulations](#).

24 August 2014 - [Update on Ebola in a British national working in Sierra Leone](#).

23 August 2014 - [Ebola: Department of Health statement](#).

23 August 2014 - [NHS patient, visitor and staff car parking principles](#).

22 August 2014 - [Transfer of 0-5 children's public health commissioning to local authorities](#).

22 August 2014 - [Help for NHS to recover costs of care from visitors and migrants](#).

22 August 2014 - [Social care grants for 2014 to 2015](#).

22 August 2014 - [DH non-executive appointments](#).

22 August 2014 - [Children, Families and Maternity e-bulletin](#).

United States of America. Department of Health & Human Services

26 August 2014 - [The Affordable Care Act supports patient-centered medical homes in health centers](#).

Australian Medical Association (AuMA)

28 August 2014 - [Government's higher education reforms a 'ticking time bomb' for future medical workforce](#). AuMA President, A/Prof Brian Owler, today called on the Government to urgently reconsider its higher education reforms amid concerns that the changes, particularly the deregulation of university fees. [Read more](#).

28 August 2014 - [Green light for practice nurse contribution to health assessments](#). AuMA President, A/Prof Owler, said today that the Department of Health (DoH) has finally provided satisfactory clearly-worded clarification about the role of practice nurses when undertaking health [Read more](#).

27 August 2014 - [AuMA Speech - Speech to the AuMA Parliamentary Dinner](#). Speech to the AuMA Parliamentary Dinner Parliament House, Canberra Wednesday 27 August 2014 [Read more](#).

British Medical Association (BMA)

27 August 2014 - [WHO calls for ban on indoor use of e-cigarettes](#).

27 August 2014 - [Pharmacist pilot for remote dispensing practices](#).

26 August 2014 - [GMC considers apology a must for doctors](#). Doctors could be required to apologise to patients harmed by poor treatment.

Canadian Medical Association (CMA)

27 August 2014 - [CMA partners with CARP on seniors care](#). The Canadian Medical Association (CMA) has joined with the Canadian Association of Retired Persons (CARP) to urge provincial and territorial premiers to take the lead in establishing a seniors care strategy.

25 August 2014 - [CMA clears the air ... again ... on marijuana](#). As marijuana use continues to be a highly-politically charged issue, Canadian Medical Association President Chris Simpson has issued a detailed statement on the association's position.

American Medical Association (AMA)

28 August 2014 - [New Shut Down of the Open Payments System Underscores Site is Not Ready for Prime Time](#). Today's announcement that the Centers for Medicare and Medicaid Services (CMS) is once again shutting down the Open Payments System adds to the growing concerns that the site is simply not ready to go public.

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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