

HEALTH ALERT

28 OCTOBER 2013

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JUDGMENTS

Commonwealth

23 October 2013 - [Maiocchi v Royal Australian & New Zealand College of Psychiatrists \[2013\] FCA 1046](#)

Practice and procedure – whether proceeding should be summarily dismissed pursuant to s 31A of *Federal Court of Australia Act 1976* (Cth) as against various respondents – whether application and amended statement of claim should be struck out.

23 October 2013 - [Sklavos v Australasian College of Dermatologists \[2013\] FCA 1065](#)

Human rights – disability discrimination – application to strike out claims against multiple respondents – whether applicant can proceed against members of Board – whether *Australian Human Rights Commission Act* permits complaint against continuing behaviour – utility.

New South Wales

18 October 2013 - [Health Care Complaints Commission \(HCCC\) v Philipiah \[2013\] NSWCA 342](#)

This appeal concerned orders made by the New South Wales (NSW) medical Tribunal against Doctor (Dr) Philipiah, following a complaint made by the HCCC that he was guilty of professional misconduct regarding the history taken, examination, management and follow-up of four patients. The HCCC also complained that Dr Philipiah's bipolar disorder was likely to detrimentally affect his capacity to practise medicine.

The HCCC brought the appeal, alleging the Tribunal had made orders not authorised by the *Health Practitioner Regulation National Law* (NSW) (national law), thereby exceeding its powers.

The Court of Appeal found that the Tribunal's powers were limited to suspending Dr Philipiah for a specific period, not indefinitely as it had ordered. The Tribunal had also made orders recommending what the medical council do if Dr Philipiah requested a return to practice and giving it authority to lift his suspension. The Court of Appeal found that the Tribunal had no power to confer review powers on the Council, which went beyond the review powers conferred on the Council under the National Law.

The Court of Appeal set aside the orders of the Tribunal and, in lieu, imposed a number of conditions upon Dr Philipiah gaining re-registration. These included that he only be allowed to work in a position approved by the medical council, and that he have a supervisor and professional mentor approved by the medical council. It also imposed health related conditions, including that he attend for treatment by a general practitioner, psychiatrist and psychologist, and take any prescribed medication.

23 October 2013 - [Sydney local health district \(department of forensic medicine\) v ANU \(EOD\) \[2013\] NSWADTAP 47](#)

This case questioned whether the post mortem procedures of the department of forensic medicine (DFM) accorded with the *Anti-Discrimination Act 1977* (NSW) (ADA), particularly its handling of bodies of persons who die human immunodeficiency virus (HIV) positive. Ms ANU had given consent for her son's body to undertake a post mortem examination but later withdrew it because his body would not be reconstructed.

She complained that the DFM had unlawfully discriminated against her on the ground of direct disability discrimination by refusing to provide her with a service or on the terms it was provided because of her son's HIV. The ADA allows an aggrieved person to make a complaint in connection with the disability of a relative.

The Appeal Panel had to determine whether the deceased was a "relative", a "person" and had a "disability" within various provisions of the ADA. It found that when "person" is used to refer to the aggrieved person themselves, it does not extended operation to allow a dead person to be that aggrieved person. However, when "person" is used in the definition of "relative" to refer to the person with whom the aggrieved person has a relationship by blood, it includes deceased persons.

The Panel concluded it was possible for a deceased to have a disability but expert evidence was required to decide whether the son had, in his body, organisms capable of causing disease or illness at the time of post mortem examination. It therefore ordered that the matter proceed to a substantial hearing.

LEGISLATION

Commonwealth

16 October 2013 - [National health \(highly specialised drugs program for hospitals\) special arrangement amendment instrument 2013 \(No. 7\) \(No. PB 70 of 2013\)](#).

16 October 2013 - [National health \(efficient funding of chemotherapy\) special arrangement amendment instrument 2013 \(No. 10\) \(No. PB 71 of 2013\)](#).

21 October 2013 - [Health insurance \(cleft lip and cleft palate services\) amendment determination 2013](#).

New South Wales

23 October 2013 - [National disability insurance scheme \(NSW enabling\) Bill 2013](#).

Queensland

22 October 2013 - [Health legislation amendment bill 2013](#).

Western Australia

23 October 2013 - [Mental health bill 2013](#) - Legislative assembly second reading.

REPORTS

Australia. Department of Health & Ageing

Media releases

23 October 2013 - [Federal Government delivers funding for new medical research discoveries](#).

20 October 2013 - [More children will finally have access to a type 1 Diabetes insulin pump - Dutton](#).

Private Health Insurance) circulars

24 October 2013 - [PHI 70/13 private hospital information - additional centre](#).

24 October 2013 - [PHI 69/13 new declaration of private hospital information](#).

23 October 2013 - [PHI 68/13 private \(same-day\) hospital name change information](#).

23 October 2013 - [PHI 67/13 prostheses list - review of grouping and benefit for ligating clips with disposable applier](#).

21 October [PHI 66/13 amendment to the private health insurance \(prostheses\) rules 2013 \(No.1\)](#).

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

24 October 2013 - Expressions of interest for appointment to accreditation assessment teams call for expressions of interest for appointment to Aboriginal and Torres Strait Islander health practice accreditation assessment teams. [Read more](#).

24 October 2013 - The Aboriginal and Torres Strait islander health practice board of Australia releases its latest newsletter. [Read more](#).

23 October 2013 - The Medical Board releases its latest communiqué. [Read more](#).

23 October 2013 - Expressions of interest for appointment to accreditation assessment teams call for expressions of interest for appointment to medical radiation practice accreditation assessment teams. [Read more](#).

21 October 2013 - The board has approved interim accreditation standards for monitoring approved programs of study. [Read more](#).

21 October 2013 - The optometry board of Australia releases its latest newsletter. [Read more](#).

18 October 2013 - Pharmacy board of Australia call for expressions of interest for a community member to join the pharmacy board of Australia. [Read more.](#)

18 October 2013 - AHPRA agency management committee vacancies call for expressions of interest for appointments to AHPRA's agency management committee. [Read more.](#)

18 October 2013 - Draft guidelines focus on further training of chiropractors. The Board is seeking feedback on its latest public consultation. [Read more.](#)

18 October 2013 - Board member vacancy - Australian Capital Territory (ACT) board of the nursing and midwifery board of Australia call for expressions of interest for a community member to join the ACT board of the nursing and midwifery board of Australia. [Read more.](#)

18 October 2013 - The board has released its new guideline for the national psychology exam. The guidelines specify the examination eligibility requirements, examination rules and specific exam policies. [Read more.](#)

Australia. National Health & Medical Research Council

23 October 2013 - [\\$559.1 million for health and medical research](#). Today, the Prime Minister the Hon Tony Abbott MP announced \$559.1 million to Australian health and medical researchers to generate new health discoveries across Australia. The new funding will support 963 grants across three national health and medical research council (NHMRC) research support schemes and five fellowship schemes. For these schemes NHMRC received over 5,000 applications with 19% of these being funded. The importance of tackling national health priorities to researchers. [Read more.](#)

Australia. Therapeutic Goods Administration

24 October 2013 - [Special access scheme \(SAS\)](#). Information added on accessing carbimazole under the SAS.

23 October 2013 - [Shortage of neo-mercazole \(carbimazole\)](#). There is a global shortage of neo-mercazole (carbimazole), which is often prescribed to people with an overactive thyroid (hyperthyroidism)

23 October 2013 - [Australian public assessment reports for prescription medicines \(AusPARs\)](#) added linagliptin (trajenta), linagliptin / metformin HCl (trajentamet), terlipressin (lucassin).

22 October 2013 - [Launch of the medical device single audit program \(MDSAP\) pilot](#). The Therapeutic Goods Administration (TGA) is pleased to announce the launch of the medical device single audit program (MDSAP) pilot from January 2014, together with Brazil's Agência Nacional de Vigilância Sanitária (ANVISA), health Canada, and the United States food and drug administration.

18 October 2013 - [Therapeutic goods committee \(TGC\) meeting statement, 27 August 2013](#).

Australian Institute of Health & Welfare

18 October 2013 - [Australian hospital statistics 2012-13: emergency department care media release](#).

22 October 2013 - Smoking and quitting smoking among prisoners 2012 [media release](#).

25 October 2013 - [BreastScreen Australia monitoring report 2010-2011 media release](#).

Australian Commission on Safety and Quality in Health Care

21 October 2013 - [On the Radar – issue 149](#).

New South Wales. Ministry of Health

Media Releases

23 October 2013 - [NSW Health Alert - Warning on e-liquids](#).

23 October 2013 - [Increase in Asthma and Breathing Problems Due to Air Pollution](#).

21 October 2013 - [Bushfire Air Pollution Health Update](#).

21 October 2013 - [Wagga Wagga Mental Health Unit](#).

Policy directives & guidelines

23 October 2013 - [Statewide Standing Orders for the Supply or Administration of Medication for Public Health Response](#).

Information Bulletins

24 October 2013 - [NSW perinatal advice line \(PAL\)](#) - IB2013_045.

22 October 2013 - [Staff specialists' training, education and study leave \(TESL\) - new funding entitlement 2013/2014](#) - IB2013_043.

22 October 2013 - [Junior medical officer - clinical year and term dates 2014 -2018](#) - IB2013_044.

21 October 2013 - [Leave for staff affected by the bush fire emergency - October 2013](#) - IB2013_042.

Northern Territory. Department of Health

23 October 2013 - [Robyn Lambley - health reforms on the move](#). New legislation to improve the way health services are delivered across the Territory has been drafted, and is now open for public comment.

Queensland. Department of Health

19 October 2013 - [Sun setting on dark side of tanning](#). Commercial tanning units will be completely banned in Queensland under changes to legislation announced today.

24 October 2013 - [Time for Queensland to step up fight against obesity](#). Health Minister Lawrence Springborg is tackling Queensland's biggest killer head on with the launch of a new awareness campaign focused on the state's rising rate of obesity.

25 October 2013 - [Baby girl receives first commemorative medallion](#). A Samford Village baby is the first in Queensland to receive a commemorative royal medallion celebrating the birth of His Royal Highness Prince George of Cambridge.

South Australia. Department for Health & Ageing

18 October 2013 - [Response to mental health review released](#).

24 October 2013 - [Response to savings proposals released](#).

24 October 2013 - Port Lincoln hospital redevelopment takes shape Hon Jack Snelling MP Health Minister Jack Snelling today visited the \$39.2 million Port Lincoln Hospital redevelopment where construction on the roof and frame of the main new hospital building has been completed. [Read more](#).

18 October 2013 - New state ageing plan launched and grant funding announced Hon Jack Snelling MP A new state ageing plan has been released today, providing a vision to help all South Australians have a fulfilling, active and enjoyable life at every age. [Read more](#).

Tasmania. Department of Health & Human Services

23 October 2013 - [Innovation Awards winners announced](#).

Victoria. Department of Health

22 October 2013 - [Networks enhance support for drug treatment](#).

21 October 2013 - [Taking action on HIV/AIDS to reduce transmission](#).

18 October 2013 - [Victoria's leading hospital performance confirmed by report](#).

Western Australia. Department of Health

Media releases

20 October 2013 - [\\$500,000 for Telethon on behalf of WA](#).

22 October 2013 - [Back to school for new school health nurses](#).

Operational directives (OD)

24 October 2013 - [OD 0465/13](#). Guidelines for the prevention and management of gastroenteritis outbreaks in residential care facilities - a revised version of WA guidelines for preventing and managing gastroenteritis outbreaks in residential care facilities, with a focus on infection control and preparedness.

24 October 2013 - [IC 0169/13](#). WA health – united voice – hospital support workers industrial agreement 2012 – arbitrated wage increases for 2013 and 2014 advice of the arbitrated wage increases for 2013 and 2014 pertaining to the WA health – united voice – hospital support workers industrial agreement 2012.

23 October 2013 - [OD 0461/13](#). WA health leave liability - in line with WA government policy for the public sector workforce, WA health is required to review a number of workforce issues including leave liability, FTE management and the public sector wages policy. In relation to leave liability, WA government introduced some budget saving measures related to the public sector workforce which included limiting the growth in leave liabilities by capping these at 30 June 2012 levels. This operational directive is in relation to managing leave liability and implementing control within WA health.

23 October 2013 - [OD 0460/13](#). Managing FTE – revised approval process for FTE management. In line with WA government policy for the public sector workforce, WA health is required to review a number of workforce issues including leave liability, FTE management and the public sector wages policy. In relation to current FTE management practices, WA health is adopting uniform approval processes and consistent practices for FTE management across the WA health system. This operational directive is in relation to the managing FTE and a revised approval process for FTE control within WA health.

New Zealand. Ministry of Health

18 October 2013 - [Health planning social bonds trial](#).

25 October 2013 - [Court fines company over *Smoke free Act* breaches](#).

United Kingdom. Department of Health

18 October 2013 - [The forgotten million](#).

18 October 2013 - [New chair of the British pharmacopoeia commission](#).

18 October 2013 - [A month left to get ready for European antibiotic awareness day](#).

22 October 2013 - [New report shows the national health service \(NHS\) could raise up to £500 million from better charging of overseas visitors](#).

22 October 2013 - [Visitors' and migrants' access to NHS: independent adviser appointed](#).

22 October 2013 - ['Ending 15-minute care': Department of Health response](#).

24 October 2013 - [Chief medical officer: Prevention pays - our children deserve better](#).

21 October 2013 - The Guardian (by Denis Campbell) [Hospitals told to investigate all patient complaints in spite of possible lawsuits Exclusive](#): Department of Health forced to issue new guidelines after patient safety charity threatens to seek judicial review.

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

21 October 2013 - [Bullying prevention awareness month](#).

22 October 2013 - [HHS awards grants for Hurricane Sandy recovery research](#).

24 October 2013 - [World polio day](#).

Australian Medical Association (AMA)

18 October 2013 - [Labor keeps experience in the shadow health portfolio](#) - AMA President, Dr Steve Hambleton, said today that the AMA congratulates Catherine King on her appointment as Shadow Minister for Health, acknowledging her valuable experience in the portfolio, [Read more](#).

21 October 2013 - [Junior doctors and medical students urge action on national medical training plan](#) The AMA Council of Doctors in Training (AMACDT) is urging Australian Health Ministers to agree to start work on a new national medical training plan when they meet in November. [Read more.](#)

21 October 2013 - [AMA calls for Parliamentary Inquiry into alcohol advertising and promotion](#) AMA President, Dr Steve Hambleton, said today that research released by The Salvation Army adds weight to the AMA's call for a Parliamentary Inquiry into alcohol advertising and promotion and the [Read more.](#)

24 October 2013 - [AMA condemns Queensland hospital doctor contracts](#) The Federal AMA has condemned the Queensland Government decision to move all Senior Medical Officers in its public hospital system on to unfair and unbalanced individual contracts from 1 July 2014 [Read more.](#)

British Medical Association (BMA)

24 October 2013 - [Call to promote technological advances in the NHS](#) Doctors leaders have argued that more needs to be done to promote new technologies in the Welsh NHS.

24 October 2013 - [Doctors' roles in child health redefined](#) Greater responsibilities for doctors caring for children with long-term health conditions were outlined in a report today.

23 October 2013 - [Short naps recommended for emergency medicine doctors](#) Emergency medicine doctors with a long commute should take naps before and after their shifts.

23 October 2013 - [Go-ahead for critical care centre](#) The business case outline for a hospital at the centre of service reconfiguration in south Wales has been approved.

22 October 2013 - [BMA disputes '£500m' cost of treating overseas patients](#) The BMA has disputed suggestions that the NHS is losing £500m in unclaimed charges from overseas patients each year.

22 October 2013 - [Government prepares to respond to working-time regulations review](#) The government will react quickly to suggestions made by a review examining working-time regulations.

18 October 2013 - [Fair access continues to challenge medical profession](#) Medicine has still some way to go before it becomes a profession that reflects all parts of society.

Canadian Medical Association (CMA)

21 October 2013 - [Court ruling carries lesson on need for advance directives: CMA.](#)

23 October 2013 - [Massive survey points to MD job angst, growing emphasis on care for seniors.](#)

American Medical Association (AMA)

23 October 2013 - JAMA [Flu Vaccine and Cardiovascular Outcomes](#) Dr Udell and co-authors determine if influenza vaccination is associated with prevention of cardiovascular events from randomized clinical trials comparing influenza vaccine vs placebo or control in high-risk cardiovascular patients.

23 October 2013 - [On the Road with AMA President, Ardis Dee Hoven, MD](#) Dr. Hoven writes about the beginning of the transformation of medical education.

ABOUT US

Andrew Forbes



Andrew practices in litigation and administrative law with a particular focus on health. He is recognised for his expertise in health regulation.

Andrew has acted in Commissions of Inquiry and led investigations into health-related incidents, such as the Hendra virus outbreak. He has acted as "counsel assisting" in internal disciplinary hearings and inquiries.

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