



HEALTH ALERT

24 October 2016

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JUDGMENTS

Commonwealth

14 October 2016 - [Steele v St Vincent's Hospital Melbourne \[2016\] FWC 7450](#)

Application for relief from unfair dismissal - compensation in lieu of reinstatement.

Victoria

19 October 2016 - [Damir Redzepovic v Western Health \[2016\] VSCA 251](#)

The applicant sought leave to appeal from a decision of the County Court dismissing his claim for damages arising from surgery that he underwent at the Western Hospital (**the hospital**) in April 2009.

The surgery in question was a left parotidectomy. Following the operation, the applicant suffered, and has continued to suffer from, significant pain and other adverse effects. At trial, he alleged that the hospital defendant failed to advise him of the risks associated with the procedure, and conducted the procedure when there was no need to do so. He was self-represented. The trial judge dismissed the claim, concluding that the applicant was advised of the risks, and that the 'overwhelming medical opinion' in the case was that the procedure was necessary.

There were two critical issues on appeal. The first was whether the judge erred in finding that the surgery was reasonable and appropriate. In that regard, the court agreed with the trial judge that the weight of evidence supported the hospital's decision to operate. The second issue was whether the judge failed to provide to the applicant the appropriate assistance required to be provided to a self-represented litigant. The court acknowledged the requirement of a judge to give an unrepresented litigant sufficient advice on matters of practice and procedure to avoid that litigant from suffering a disadvantage. The court concluded that the judge fully complied with that obligation.

The appeal was dismissed.

New South Wales

14 October 2016 - [Logar v Ambulance Service of New South Wales Sydney Region \[2016\] NSWDC 255](#)

In June 2011, the plaintiff drove into a controlled intersection facing a green light and collided with an ambulance. The plaintiff alleged that the driver of the ambulance was negligent and sought damages for the injuries she suffered as a result. The principle issue in dispute was the circumstances of the collision.

The plaintiff's account was that as she proceeded through the intersection at approximately 55km/hr, she heard no siren, nor saw an ambulance or any flashing lights. Her window was down and her radio was off. Just after entering the intersection, her car collided with the ambulance. The driver of the ambulance gave a different account. She said that at the time of the collision, the ambulance was on its way to attend an unconscious patient with breathing difficulties. As she approached the intersection, she alleges to have switched the siren from the longer 'wailing' sound to the 'dog bark' or 'yelp' sound. She then waited for about ten seconds before moving slowly against the red light. It was then that the collision occurred.

Two other witnesses gave evidence which largely corroborated the account given by the ambulance driver. They both said that the siren and lights were on at all times. The court accepted this evidence and found that the action of the ambulance driver was reasonable bearing in mind the emergency situation she faced. The plaintiff's case of negligence was dismissed.

19 October 2016 - [Quach v New South Wales Health Care Complaints Commission \(No 3\) \[2016\] NSWCA 284](#)

PRACTICE – review of decision of single judge of appeal – Supreme Court Act 1970 (NSW), s 46(4) – whether court properly constituted by single judge – whether denial of procedural fairness – whether judge erred in principle or decision plainly wrong

19 October 2016 - [Quach v New South Wales Health Care Complaints Commission \(No 4\) \[2016\] NSWCA 285](#)

PRACTICE – where order in terms of Teoh v Hunters Hill Council (No 4) (2011) 81 NSWLR 771 (Teoh Order) made – where applicant filed further notices of motion subsequent to Teoh Order – whether applicant had shown cause in writing why the motions should not be dismissed as vexatious and abuse of process – whether written submissions demonstrate basis for listing motions for hearing – motions dismissed

LEGISLATION

As a general rule, this bulletin tracks subsidiary legislation at Commonwealth, but not at state level

Commonwealth

20 October 2016 - [Therapeutic Goods \(Repeal of Listing Notices\) Notice 2016](#) - F2016L01635 as made.

19 October 2016 - [Private Health Insurance \(Prostheses\) Amendment Rules 2016 \(No. 4\)](#) - F2016L01627 as made.

14 October 2016 - [Health Insurance Legislation Amendment \(2016 Measures No. 2\) Regulation 2016](#) - F2016L01616 as made.

Tasmania

18 October 2016 - [Poisons amendment \(Poppy Industry reform\) Bill 2016](#) - assented.

Victoria

18 October 2016 - [Tobacco Amendment Bill 2016](#) - assented.

REPORTS

Australia. Department of Health

Media releases

20 October 2016 - [Consultation welcome on draft Fifth National Mental Health Plan](#) - The community is being invited to have their say on a new national plan that aims to improve the lives of people with mental health issues.

20 October 2016 - [Rural Medicine Australia Conference](#) - Regional, rural and remote health reform is one of the Australian Government's key health priorities.

19 October 2016 - [Digital payments IT system replacement](#) - The Australian Government will replace the IT system to deliver reliable and accurate health, aged care and veterans' payments.

19 October 2016 - [Turnbull Government to ease pressure on private health insurance premiums](#) - The Australian Government will reduce the cost of thousands of medical devices ranging from pacemakers and lenses to knees and hips by half-a-billion dollars to take pressure off private health insurance premiums for Australians.

17 October 2016 - **Opening of the Commonwealth Home Support Program Growth Funding Round** - Existing and prospective aged care providers of Commonwealth Home Support Program services are invited to apply for funding to support older people to live independently within their communities.

14 October 2016 - **Kimberley Roundtable – Suicide Prevention** - A high-level Roundtable discussion on Aboriginal and Torres Strait Islander suicide in the Western Australian Kimberley region, emphasised the need for local, Indigenous controlled responses to the escalating rates of suicide in the community.

Consultations

14 October 2016 - **Consultation on the Aged Care Legislated Review** - As part of the changes announced in 2012, a comprehensive review was included in the *Aged Care (Living Longer Living Better) Act 2013* (the Act). The Aged Care Legislated Review will look at the impact of the changes to date and where we need to take the system in the future. Submissions will close at 5pm, 4 December 2016.

Private Health Insurance Circulars

19 October 2016 - **PHI 79/16 Prostheses List Benefits Reduction - Private Health Insurance (Prostheses) Amendment Rules 2016 (No.4)**

17 October 2016 - **PHI 78/16 Declaration Private Same-Day Hospital Information**

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

21 October 2016 - **Call for applications** - Call for applications for appointment to AHPRA Agency Management Committee.

21 October 2016 - **Call for applications** - Call for applications for appointment to the Medical Radiation Practice Board of Australia as a community member.

21 October 2016 - **Call for applications** - Call for applications for appointment to the National Boards regulating health professions across Australia.

21 October 2016 - **Quarterly registration data released** - The National Board has released its quarterly registration data.

21 October 2016 - **Call for applications** - Call for applications for appointment to the Nursing and Midwifery Board of Australia as a practitioner member from Queensland.

21 October 2016 - **Call for applications** - Call for applications for appointment to the Pharmacy Board of Australia as a community member.

18 October 2016 - **Communiqué from the Podiatry Board of Australia**

20 October 2016 - **NMBA position clear, we will take action on anti-vaccination promoters** - The Nursing and Midwifery Board of Australia (NMBA) and AHPRA take their responsibility of public protection very seriously, and will take regulatory action on nurses or midwives who promote anti-vaccination statements to patients and the public.

20 October 2016 - **Newsletter from the Dental Board of Australia**

19 October 2016 - **Newsletter from the Optometry Board of Australia**

18 October 2016 **Communiqué from the Chinese Medicine Board of Australia**

18 October 2016 - **Tribunal reprimands and fines GP following unprofessional conduct** - Dr Almayne du Preez, a general practitioner, has been reprimanded and fined after admitting that her management of a patient with Lyme disease or Lyme disease-like illness amounted to unprofessional conduct.

17 October 2016 - [Bulletin on further information on advertising therapeutic claims for osteopaths from the Osteopathy Board](#) - The Osteopathy Board of Australia releases its second bulletin providing advice to osteopaths on advertising regulated health services.

17 October 2016 - [Final-year students invited to apply for registration online now](#) - Students who are in their final year of study to become a health practitioner should apply for registration online now.

17 October 2016 - [Tips for dental patients](#) - Today, the Dental Board of Australia has launched its first ever video for patients to help make sure they are getting safe care from their dental practitioners.

14 October 2016 - [Public consultation paper released](#) - The Podiatry Board of Australia has published a consultation paper on a proposed revised endorsement for scheduled medicines registration standard and related guidelines.

14 October 2016 - [Students seeking provisional registration urged to apply online now](#) - Pharmacy students who will soon complete an approved program of study can go online now to apply for provisional registration before they graduate.

14 October 2016 - [Students seeking registration urged to apply online now](#) - Students who will complete their studies soon and who seek registration as an Aboriginal and/or Torres Strait Islander health practitioner can apply online now.

Australia. National Blood Authority (NBA)

4 October 2016 - [Supply Arrangements for Imported Plasma and Recombinant Products](#) - The NBA has successfully concluded the procurement process for supply of C1 Esterase Inhibitor, Anti-Rh(D) Ig, Fibrinogen Concentrate.

Australia. National Health & Medical Research Council

On the Radar – 17 October 2016 – Issue 295 ([PDF 204KB](#)) ([Word 150KB](#))

On the Radar – 10 October 2016 – Issue 294 ([PDF 208KB](#)) ([Word 152KB](#))

Australia. Pharmaceutical Benefits Scheme

14 October 2016 - [Drugs and manners of administration that meet the F2/multi-brand criteria \(30 month clock for originator removal calculation\) for the 2017 April Cycle](#) - A list of drugs and manners of administration that meet the F2/multi-brand criteria (30 month clock for originator removal calculation) for the 2017 April Cycle of price disclosure have now been published on the [Price Disclosure \(SPD\)](#) web page.

12 October 2016 - [Pharmaceutical Benefits Advisory Committee \(PBAC\) Guidelines](#) - The PBAC has endorsed version 5.0 of their guidelines, which are now available on the [PBAC website](#).

Australia. Therapeutic Goods Administration

20 October 2016 - [Homeopathic teething products](#) - Safety advisory - potentially harmful for infants and children.

20 October 2016 - [Online payment of licence application fees by biological manufacturers](#) - We have identified a billing issue in our online systems.

20 October 2016 - [Updates to the list of designated orphan drugs](#) - Added Carglumic acid (UDECANE).

18 October 2016 - [Australian Public Assessment Reports for prescription medicines \(AusPARs\)](#) - Added Pembrolizumab (rch) (Keytruda).

18 October 2016 - [St Jude ICDs and CRT-Ds - various models](#) - Hazard alert - risk of premature battery depletion.

17 October 2016 - [Certified product details \(CPD\) - Biological prescription medicines](#) - A revised CPD template for Biological medicines and vaccines is now available for sponsors.

17 October 2016 - [Medical devices and IVDs: Cancellations from the Australian Register of Therapeutic Goods \(ARTG\)](#) - The Emergo Asia Pacific Pty Ltd medical device 'Duodenal-jejunal bypass liner' has been cancelled from the ARTG.

14 October 2016 - [Consultation: Orphan drug program](#) - The TGA is seeking comments from interested parties on the 2016 TGA Orphan drug program proposal. Closing date: 25 November 2016

14 October 2016 - [Updates to the list of designated orphan drugs](#) - Added Andepatuzumab mafodotin, Crizotinib (XALKORI) and Rufenamide.

14 October 2016 - [Animas Vibe insulin pumps](#) - Safety advisory - potential battery issues if compartment cracked.

18 October 2016 - [AusPARs for prescription medicines](#) - Added Pembrolizumab (rch) (Keytruda).

18 October 2016 - [St Jude ICDs and CRT-Ds - various models](#) - Hazard alert - risk of premature battery depletion.

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Australian Institute of Health & Welfare

14 October 2016 - [Mental health services — in brief 2016](#) - media release: [More mental health prescriptions dispensed — but government spending falls due to lower costs](#)

17 October 2016 - [Fourth study of mortality and cancer incidence in aircraft maintenance personnel: a continuing study of F-111 Deseal/Reseal personnel 2016](#)

12 October 2016 - [Perinatal deaths in Australia 1993–2012](#) - media release: [Improvements seen in rates of newborn deaths, gap closing for Indigenous babies](#)

7 October 2016 - [Trends in alcohol availability, use and treatment 2003–04 to 2014–15](#) - media release: [Australians over 40 more likely to receive treatment for alcohol—but young adults at most risk](#)

6 October 2016 - [Health expenditure Australia 2014–15](#) - media release: [Latest health spending figures reveal mixed trends](#)

Australian Commission on Safety and Quality in Health Care

On the Radar – 17 October 2016 – Issue 295 ([PDF 204KB](#)) ([Word 150KB](#))

On the Radar – 10 October 2016 – Issue 294 ([PDF 208KB](#)) ([Word 152KB](#))

Australian Prudential Regulation Authority (APRA)

12 October 2016 - [APRA sets expectations for improvements to claims handling](#) - APRA has today sent letters to life insurers and superannuation trustees setting out its expectations for improvements to the oversight and handling of insurance claims. Based on information submitted by insurers and trustees, APRA has identified a number of areas where both trustees and life insurers can improve their practices to better meet expectations in relation to insurance claims. APRA's letters to life insurers and trustees coincide with the release of a report by the Australian Securities and Investments Commission (**ASIC**) on its investigation into the treatment of life insurance claimants. ASIC's statement released today can be found on the [ASIC website](#).

Australia. National Mental Health Commission (NMHC)

11 October 2016 - [Nicole Gibson: a personal message for Mental Health Week](#) - After overcoming mental health challenges as a young person, in particular anorexia nervosa, Nicole is channeling her energy into motivating other young people to be the best they can be.

11 October 2016 - [Allan Fels: a personal message for Mental Health Week](#) - A long term advocate of mental health policy and carer, Allan says Mental Health Week is “an opportunity to celebrate the lives of millions of persons in Australia who have mental health challenges”.

11 October 2016 - [Lucy Brogden: a personal message for Mental Health Week](#) - Co-chair of the [NMHC’s Advisory Group for Suicide Prevention](#), Lucy says, “as a community, we need to arrest the growth in suicide. Strong communities lead to strong people lead to strong communities. Together we can make that difference.”

New South Wales (NSW). Ministry of Health

Media Releases

21 October 2016 - [Progress on health partnership](#) - Health Minister Jillian Skinner today announced the NSW Government’s health partnerships proposal to build upgraded hospitals at Maitland, Wyong, and Shellharbour hospitals, and to investigate a shared infrastructure solution at Bowral, will progress to the next stage.

20 October 2016 - [NSW Health warns of deadly viruses during bat breeding season](#) - As the bat breeding season begins NSW Health is warning people not to approach or handle injured bats and flying foxes to avoid exposure to the potentially fatal Australian Bat lyssavirus, which is closely related to the rabies virus. So far this year, more than 400 NSW residents have been given rabies post exposure prophylaxis following high-risk exposures to potentially infected animals. About one-quarter had been bitten or scratched by a bat in Australia, while the others had come into contact with potentially rabies-infected animals overseas.

19 October 2016 - [Second peritonectomy site at Royal Prince Alfred Hospital](#) - The NSW Government will establish a second state-wide peritonectomy service at Sydney’s Royal Prince Alfred Hospital. The 2015 NSW Peritonectomy Services Planning Report recommended a second NSW public sector peritonectomy service be established to meet current and future demand for the highly-specialised and complex surgical service for some cancers of the peritoneum.

19 October 2016 - [Applications open for the NSW Medical Device Commercialisation Training Program](#) - NSW Health today announced Sydney-based technology incubator, ATP Innovations, will deliver the Medical Device Commercialisation Training Program after it won a competitive tender. The program develops the commercialisation and business skills of innovators of novel medical devices, to keep research talent in NSW and ultimately deliver better health and economic outcomes.

Publications

20 October 2016 - [OHMR Innovator - Issue 7](#)

Policy Directives & Guidelines

19 October 2016 - [Employment Checks - Criminal Record Checks and Working with Children Checks](#)

19 October 2016 - [Resolving Workplace Grievances](#)

18 October 2016 - [Employee Assistance Programs](#)

Information Bulletins

20 October 2016 - [Overtime Meal Allowances](#)

18 October 2016 - [NSW Health Labour Agreement](#)

New South Wales Health Care Complaints Commission

18 October 2016 - **Mr David Kaye (aka Ali Davut Sarikaya) – Breach of Code of Conduct for Unregistered Health Practitioners – Prohibition Orders Imposed**

17 October 2016 - **RN Bennett – Unsatisfactory professional conduct – Reprimanded**

12 October 2016 - **Dr Arunachalam Lakshmanan – Unsatisfactory professional misconduct**

10 October 2016 - **CSM - Professional misconduct**

5 October 2016 - **Dr Young Hoon Sun - Professional misconduct - Conditions imposed**

19 September 2016 - **Dr “CRF” – Professional misconduct - Registration cancelled**

5 September 2016 - **Mr William James Stone – Professional misconduct**

Queensland. Department of Health

19 October 2016 - **Award-winning program has deadly serious results** - Programs like Deadly Ears are helping to improve health outcomes for young indigenous children. The award-winning Queensland Deadly Ears Program has led to a major turn-around in the detection and treatment of hearing problems in indigenous children. Deadly Ears has reduced the number of presentations for chronic ear disease for Aboriginal and Torres Strait Islander children by a third.

19 October 2016 - **Why are medicinal cannabis trials in Queensland starting with Epilepsy treatments?** - In April 2015 the Queensland Premier, The Honourable Anastacia Palaszczuk announced the Government's intention to engage in clinical trials for children with treatment resistant epilepsy. This commitment followed meetings with parents whose family life had been devastated by these relentless conditions.

17 October 2016 - **Construction begins on \$6.6 million Townsville Hospital children's ward expansion** - Construction on a \$6.6 million expansion and refurbishment of The Townsville Hospital's children's ward begins today.

15 October 2016 - **Minister to take Queensland's health smarts to the world** - Queensland's investment-rich health and life sciences research and development industry will be the focus of a week-long trade mission to the US and China beginning today.

South Australia (SA). Department for Health & Ageing

20 October 2016 - **More new jobs for SA as medical device manufacturer establishes in Adelaide** - A start-up company that has developed a breakthrough technology that will greatly improve the efficiency and accuracy of pre-clinical medical research will establish its development and manufacturing operations at Tonsley, creating 48 new jobs.

20 October 2016 - **Healthy results for hospital survey** - South Australians are pleased with the quality of care they receive in SA Health hospitals but new data shows improvements must be made to the way information is conveyed to patients.

19 October 2016 - **Liberals have a sick plan for public health** - Health Minister Jack Snelling has called on State Liberal leader Steven Marshall to come clean on what he says is a sick plan by the opposition to drastically cut spending on South Australia's public hospitals and health services.

Victoria. Department of Health

19 October 2016 - **Medical imaging boost for Maryborough hospital** - More patients will receive critical medical imaging tests sooner and more safely at Maryborough Hospital thanks to a funding boost from the Andrews Labor Government. Premier Daniel Andrews today joined Minister for Health Jill Hennessy to announce Maryborough District Health Service would receive \$1.1 million through the first round of the Labor Government's new *Regional Health Infrastructure Fund*.

19 October 2016 - **First ever ambulance station for Mernda** - The Andrews Labor Government will build Mernda's first ever ambulance station to meet growing demand for emergency care in one of the nation's fastest growing communities.

19 October 2016 - [Faster, better emergency care with new Diamond Creek ambulance station](#) - The Andrews Labor Government will build a new state-of-the-art, stand-alone ambulance station in Diamond Creek to give paramedics the facilities they need to quickly respond to local medical emergencies.

Western Australia (WA). Department of Health

Media Releases

21 October 2016 - [Minister for Health and Minister for Regional Development: New renal services for Kimberley communities](#) - Some of the most vulnerable patients in the Kimberley will benefit from two new renal facilities now underway in Derby and Fitzroy Crossing.

20 October 2016 - [Minister for Health: \\$3 million project to help futureproof hospital](#) - A \$3 million investment to extend the Osborne Park Hospital car park to 800 bays will play an important role in supporting the healthcare facility's potential growth.

20 October 2016 - [Researchers to test value of “warrior” GM T-cells](#) - Western Australians with B-cell leukaemia may soon be able to tackle their cancer using genetically modified white blood cells.

19 October 2016 - [Minister for Health and Minister for Regional Development: Virtual emergency department now in Yalgoo](#) - Residents in and around the Mid-West town of Yalgoo now have access to better emergency health services thanks to the Liberal National Government's country telehealth initiative.

19 October 2016 - [Meningococcal disease in an older teenager](#) - The Department of Health today reported that an older teenager with confirmed meningococcal infection is currently making a good recovery in hospital.

19 October 2016 - [Call for nominations – Health Practitioner Boards](#) - The Department of Health is seeking nominations on behalf of the Minister for Health for suitably qualified and registered health practitioners to represent their profession, and community members to represent the interests of consumers.

17 October 2016 - [Phone numbers changing at King Eddies](#) - On Saturday 22 October the main phone number at King Edward Memorial Hospital (**KEMH**) will change to 6458 2222. Other phone and fax numbers at KEMH will also change.

Policies

20 October 2016 - MP 0038/16 [Insertion and Management of Peripheral Intravenous Cannulae in Western Australian Healthcare Facilities](#) - This Policy outlines the minimum requirements for the management of Peripheral Intravenous Cannulae (**PIVC**). This policy applies to all HCFs within the WA health system. These HCFs are to align their policies for the insertion and management of PIVCs with this document to ensure a standardised level of care and to minimise the risk of patients developing infective complications from PIVC

Publications

20 October 2016 - [Registration of Paramedics Regulatory Impact Statement WA](#)

19 October 2016 - [Referrals to public outpatient surgical clinics reporting](#)

18 October 2016 - [Healthview](#)

14 October 2016 - [Elective Surgery Wait List reports](#)

New Zealand. Ministry of Health

17 October 2016 - [Private Health Insurance Coverage 2011–15: New Zealand Health Survey](#) - This report presents findings about the PHI of adults and children from data collected between 2011 and 2015 in the New Zealand Health Survey.

Australian Medical Association (AuMA)

19 October 2016 - [Modern Medicare IT system welcomed](#) - AuMA President, Dr Michael Gannon, welcomes the Government's decision to modernise Medicare's IT system, but says doctors must be closely involved in the new system's design.

19 October 2016 - **Medicare freeze forcing GP fees up** - The ongoing Medicare rebate freeze means the gap between the Government rebate and the actual cost of a GP visit is widening, leaving patients out-of-pocket. The AuMA List of Medical Services and Fees 2016 recommends a modest rise in the standard Level B consultation fee.

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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