



HEALTH ALERT

13 June 2016

Judgments	2
South Australia	2
Victoria	2
Commonwealth. Federal Court	3
New South Wales	3
Queensland	4
Legislation	4
Commonwealth	4
South Australia	4
Victoria	4
Reports	4
Australia. Department of Health	4
Australia. Health Practitioner Regulation Agency and the boards (AHPRA)	4
Australia. Therapeutic Goods Administration (TGA)	5
Australian Institute of Health & Welfare	6
Australian Commission on Safety and Quality in Health Care	6
Australian Capital Territory (ACT). Health Directorate	6
New South Wales (NSW). Ministry of Health	6
Northern Territory. Department of Health	7
Queensland. Department of Health	7
Tasmania. Department of Health & Human Services	7
Victoria. Department of Health	7
Western Australia. Department of Health	8
New Zealand. Ministry of Health	8
British Medical Association	9
About us	9
More information	9

JUDGMENTS

South Australia

3 May 2016 - *Blight v Women's & Children's Health Network* [2016] SAEOT 3

Dr Blight instituted a complaint pursuant to section 93 of the Equal Opportunity Act 1984. She alleged discrimination on the grounds of disability and sex against the respondent, the Women's and Children's Health Network (**WCHN**). The discrimination was alleged to have occurred between 2011 and 2013 during her training for admission to Fellowship of Royal Australian College of Physicians. Dr Blight argued that the discrimination caused or contributed to the delay in her progression to fellowship. She was awarded her fellowship in early 2013, shortly after her contract of employment expired with WCHN.

Dr Blight asserted various instances of discrimination or unfavourable treatment. The first instance related to her suffering an episode of unconscious collapse which was subsequently diagnosed as Temporal Lobe Epilepsy (**TLE**). She alleged that there was a deliberate failure by WCHN to take action in relation to her TLE in the form of support or rehabilitation. Secondly, Dr Blight alleged that work colleagues had made inappropriate or adverse comments with respect to her weight and health problems in the presence of peers. Thirdly, Dr Blight asserted that WCHN discriminated against her on the basis of her inability to drive. Finally, numerous complaints were made regarding WCHN's handling of Dr Blight's workplace concerns during her employment.

WCHN denied the allegations. It tendered three volumes of documents, as well as written and oral evidence from employee witnesses. The Tribunal ultimately held that Dr Blight did not demonstrate that WCHN had unlawfully discriminated against her. The complaint was dismissed.

Victoria

1 June 2016 - *JPP v Department of Health and Human Services (Review and Regulation)* [2016] VCAT 884

JPP complained to the Chief Psychiatrist (a role created by Victorian mental health legislation) about his treatment and care from publicly funded clinical mental health services in Victoria. The Office of the Chief Psychiatrist investigated his complaint and generated a file containing relevant documents. JPP sought access to that file under the *Freedom of Information Act 1982 (the Act)* from the Department of Health and Human Services. The Department, and later, the Freedom of Information Commissioner, ruled that some documents were exempt either in full or in part from release to JPP. JPP applied to VCAT seeking review of this decision.

Under the Act, JPP has a right to obtain documents, unless a document is wholly or in part an exempt document as defined by the Act. The following documents, or part thereof, contained within JPP's file were found to be exempt pursuant to the Act. Firstly, those that contained a mix of opinion, advice, and/or recommendation prepared by an officer of the Department. Secondly, any documents which contained information which, if disclosed, would be contrary to the public interest. Thirdly, those which would disclose the information relating to the personal affairs of any person. And finally, any documents which, if disclosed, would divulge information or matter communicated in confidence by or on behalf of a person or a government to an agency.

For these reasons, the Tribunal affirmed the decision of the Commissioner to deny JPP access to some documents contained within his file, either wholly or in part.

7 June 2016 - *Medical Board of Australia v Black (Review and Regulation)* [2016] VCAT 892

Medical practitioner – agreed facts and joint proposed determinations – convictions for knowingly possessing child pornography – images found on USBs found at the hospital where he worked and on computers in his home – practitioner was himself a victim of sexual abuse as a child – professional misconduct admitted and insight and remorse demonstrated – appropriate determination in the particular circumstances of the case – Health Practitioner Regulation National Law (Victoria) Act 2009 s.196.

Commonwealth. Federal Court

31 May 2016 - *GlaxoSmithKline Consumer Healthcare Investments (Ireland) (No. 2) Limited v Apotex Pty Ltd* [2016] FCA 608

PATENTS – paracetamol – bilayer tablets – sustained release and immediate release layers – unique in vitro paracetamol dissolution profiles – dissolution testing apparatus – construction of the claims – common general knowledge – meaning of 'the USP type III apparatus, reciprocating basket' – whether 'reciprocating basket' a mistake or error in the claims and specification – whether claims to be construed as 'reciprocating cylinder' – whether effect of construction is to re-write or amend the claims – meaning of 'matrix forming polymer' – alleged infringement – whether respondents' products within claimed dissolution profile – whether respondents' products contained matrix forming polymer within the claims – infringement not made out – whether second applicant an exclusive licensee of the patent.

New South Wales

10 June 2016 - *Health Care Complaints Commission v Marino (No. 2)* [2016] NSWCATOD 75

Medical Practitioner - finding of professional misconduct involving sexual activity with patient - held cancellation not appropriate - protective orders made including suspension of registration and practice conditions.

9 June 2016 - *GMC Healthcare Pty Ltd v Shao* [2016] NSWSC 741

LANDLORD AND TENANT – rent – commercial lease of medical centre – provision for rental discount – construction – meaning of 'rent review date' – meaning of 'Full Time Equivalence doctors' – whether lessee under an obligation to provide information to lessor in relation to rental discount – at what times is the rental discount to be determined – in respect of what period is the rental discount assessed.

7 June 2016 - *Health Care Complaints Commission v Astor-Finn* [2016] NSWCATOD 73

PROFESSIONAL DISCIPLINE – Medical Profession – Breach of treatment conditions of conditional registration – Unsatisfactory professional conduct – Mental capacity – Impairment – Incompetence – Cancellation of registration.

7 June 2016 - *P v Western NSW Local Health District* [2016] NSWCATAD 109

Government information public access – review of decision – overriding presumption of a public interest consideration against disclosure due to client legal privilege – consideration of whether public interest requires non-disclosure of personal information – consideration of whether public interest requires the non-disclosure of information because it is reasonably likely to prejudice any person's legitimate business, commercial, professional or financial interests – anonymity of applicant – consideration of effect of prior decisions restricting disclosure of applicants identity – further order restricting disclosure of applicants name made.

3 June 2016 - *Health Care Complaints Commission v Jangodaz* [2016] NSWCATOD 71

Dentistry; sexual relationship with patient; boundary violation; inappropriate clinical notes; pressure on patient to withdraw complaint; termination of incomplete treatment without referral to another practitioner.

2 June 2016 - *Yu v Western Sydney Local Health District (No 2)* [2016] NSWSC 716

PROCEDURE – Interlocutory proceedings – interim payments – where agreed between the parties.

1 June 2016 - *The Lawson Clinic Pty Ltd v Ku-ring-gai Council* [2016] NSWLEC 65

DEVELOPMENT CONTRIBUTION – reasonableness – contribution in Contributions Plan based on vehicle movements – whether vehicle movements expected from proposed psychiatric hospital significantly different from assumption in the plan – whether indicative formula adopted by plan appropriate in light of available information concerning implementation of the plan – adjustment of vehicle-based element of formula reasonable – no basis to consider indexation formulae unreasonable – contribution to be adjusted to reflect revised vehicle movement factor.

Queensland

3 June 2016 - [Eaton v TriCare \(Country\) Pty Ltd \[2016\] QCA 139](#)

Torts – negligence – essentials of action for negligence – duty of care – special relationships and duties – employer and employee

9 June 2016 - [Nursing and Midwifery Board of Australia v Evans \[2016\] QCAT 077](#)

PROFESSIONS AND TRADES – HEALTH CARE PROFESSIONALS – MEDICAL PRACTITIONERS – DISCIPLINARY PROCEEDINGS – PROFESSIONAL MISCONDUCT AND UNPROFESSIONAL CONDUCT – DEPARTURE FROM ACCEPTED STANDARDS – where registrant engaged in an inappropriate personal and sexual relationship with a patient – where registrant experienced unique and extreme personal circumstances at the time of the relevant conduct – where registrant initially gave dishonest responses during the investigation – where registrant subsequently made full admissions and fully cooperated in the investigation and proceedings – where registrant admitted professional misconduct – where registrant subject to conditions following immediate action – where further ethical training and psychotherapy undertaken before the hearing – whether registrant should be suspended – whether Tribunal has power on a disciplinary referral under s 193 of the National Law to remove conditions imposed under immediate action.

LEGISLATION

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

Commonwealth

9 June 2016 - [Declaration of Quality Assurance Activity under section 124X of the Health Insurance Act 1973 – QAA 5/2016](#) - F2016L01016 as made.

South Australia

8 June 2016 - [Health Care \(Privacy and Confidentiality\) Amendment Bill 2016](#)

Victoria

8 June 2016 - [Access to Medicinal Cannabis Act 2016](#) - (No. 20 of 2016) commenced.

REPORTS

Australia. Department of Health

Private Health Insurance Circulars

2 June 2016 - [PHI 40/16 – Private Health Insurance \(Benefit Requirements\) Amendment Rules 2016 \(No. 3\)](#)

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

9 June 2016 - [Statement on Bacchus Marsh Hospital](#) - The statement yesterday by Victorian Health Minister, The Hon Jill Hennessy MP, on the review of stillborn and newborn deaths at Djerriwarrh Health Services going back to 2001 underlines the importance of AHPRA's investigations into individual health practitioners.

9 June 2016 - [Communiqué](#) from the Chiropractic Board of Australia 20 May 2016 ([35.7KB PDF](#)) ([374KB Word](#)) and 22 April 2016 ([35.7 KB PDF](#)) ([374 KB Word](#)).

8 June 2016 - [Funding determination for Queensland Office of the Health Ombudsman](#) - AHPRA has received a letter from the Queensland Government, formally notifying of the determination of fees to be paid from AHPRA to the Queensland Office of the Health Ombudsman (OHO) for 2015-2016.

8 June 2016 - [Communiqué](#) from the Dental Board of Australia ([62.3 KB PDF](#)) ([81.3 KB Word](#)).

7 June 2016 - [Communiqué](#) from the Aboriginal and Torres Strait Islander Health Practice Board of Australia ([61.3 KB PDF](#)) ([465 KB Word](#)).

7 June 2016 - [Newsletter from the Occupational Therapy Board of Australia](#)

6 June 2016 - [Quarterly registration data released](#) - Read the latest report and other statistics [here](#).

Australia. Therapeutic Goods Administration (TGA)

9 June 2016 - [Ethicon Physiomesh Flexible Composite Mesh](#) - hazard alert - higher rate of recurrence/reoperation.

9 June 2016 - [Public submissions on scheduling matters referred to the ACMS#16, November 2015](#) - Public submissions made in response to the delegates' proposed amendments to the Poisons Standard and the delegates' interim decision.

9 June 2016 - [Australian Public Assessment Reports for prescription medicines \(AusPARs\)](#) - added Armodafinil (Nuvigil).

8 June 2016 - [Updates to the list of designated orphan drugs](#) - added Bosentan.

7 June 2016 - [Canagliflozin](#) - safety advisory - potential increased risk of lower limb amputation.

7 June 2016 - [TGA presentation: Australian Acupuncture and Chinese Medicine Annual Conference Perth, 20-22 May 2016](#) - This presentation provides an overview traditional Chinese Medicines with the complementary medicines regulatory framework and the future of complementary medicine regulation.

6 June 2016 - [Zovirax Ophthalmic ointment](#) - update - registered product now available.

6 June 2016 - [Annual charge exemption scheme: Questions and answers](#) - 2016 annual charge exemption (ACE) scheme declarations of turnover.

3 June 2016 - [TGA presentations: National Medicines Symposium, 19-20 May 2016](#) - TGA presentations and posters given at the National Medicines Symposium on 19-20 May 2016.

3 June 2016 - [Updating medicine ingredient names](#) - Printable posters and leaflets are available for download to help raise awareness about ingredient name changes.

3 June 2016 - [List of evaluated registered complementary medicines](#) - A new entry has been made on the list that sets out the registered complementary medicines on the ARTG that have been evaluated by the TGA.

3 June 2016 - [Medicines Safety Update Volume 7 Number 3, June 2016](#) - In this issue: Bromhexine-containing cough and cold medicines; lercanidipine; Marcain Spinal 0.5% Heavy.

2 June 2016 - [Guidance on release for supply, Part 2](#) - Document to provide industry with guidance on release for supply of medicines.

2 June 2016 - [Glyceryl trinitrate tablets \(Anginine and Lycinate\)](#) - safety advisory - reports of longer than expected time to dissolve and difficulty breaking tablets.

2 June 2016 - [Prescription medicines: registration of new chemical entities in Australia](#) - added registered new chemical entities for June.

2 June 2016 - [ACSOV meeting statement, Meeting 11, 8 April 2016](#) - Advisory Committee on the Safety of Vaccines meeting statement.

Australian Institute of Health & Welfare

10 June 2016 - [media release: Pain killer and antipsychotic medication use high among prisoners - particularly females](#)

9 June 2016 - [Nursing and midwifery workforce 2015 \(web report\)](#) and infographic ([660 KB PDF](#)).

8 Jun 2016 - [media release: Community support and employment services most used disability services](#)

Australian Commission on Safety and Quality in Health Care

On the Radar – 6 June 2016 – Issue 276 ([PDF 104 KB](#)) ([Word 142 KB](#))

[Advisory A16/03: Reprocessing of reusable medical devices in health service organisations \(PDF 43 KB\)](#)

Australian Capital Territory (ACT). Health Directorate

9 June 2016 - [Death Cap mushroom alert](#) - ACT CHO, today alerted the community to the potential of Death Cap mushrooms growing around the ACT due to the recent heavy rainfall.

2 June 2016 - [Expanded stroke service to improve access to cutting edge stroke treatments in the ACT](#) - An additional \$5 million in funding will be made available to improve access to timely assessment and acute stroke treatment services in the ACT, Minister for Health Simon Corbell announced today. Mr Corbell said the extra funding to be allocated over 4 years in the 2016-17 ACT Budget would employ an additional 4 specialised staff to provide more timely assessments for clot break-down treatment at Canberra Hospital and Calvary Hospital, and provide better access to vital clot retrieval procedures for patients requiring this advanced treatment.

New South Wales (NSW). Ministry of Health

Media Releases

9 June 2016 - [NSW Budget - \\$150 million boost for NSW Ambulance](#) - The 2016-17 NSW Budget will include a \$150 million boost for NSW Ambulance personnel and infrastructure, including the recruitment of more than 100 new paramedics.

7 June 2016 - [\\$39 million to advance NSW cancer research](#) - The NSW Government will support emerging and groundbreaking cancer research with \$39 million in cancer research grants this year.

7 June 2016 - [Cancer research grant recipients](#)

6 June 2016 - [NSW Budget: \\$133 million to continue major Gosford Hospital revamp](#) - The 2016-17 Budget will deliver \$133 million towards the major redevelopment of Gosford Hospital, including \$15 million to commence work on a new \$35.5 million multi-storey car park, which will include 800 car spaces.

6 June 2016 - [Artist's impression - Gosford Hospital redevelopment car park](#)

Policy Directives & Guidelines

9 June 2016 - [Executive Performance Management](#) PD2016_019

7 June 2016 - [Oral Health Fee for Service Scheme](#) PD2016_018

Information Bulletins

10 June 2016 - [Oral Health Fee for Service Schedule of Fees 2016](#) IB2016_023

Publications

8 June 2016 - [Aboriginal Family Health Strategy Evaluation Findings](#)

Northern Territory. Department of Health

9 June 2016 - **Have a mozzie free long weekend** - As Top Enders prepare for the long weekend they are being warned to protect themselves from the potentially deadly mosquito-borne disease Murray Valley Encephalitis.

Queensland. Department of Health

9 June 2016 - **Rural women's health addressed at mobile clinics** - A Townsville Hospital and Health Service mobile nurse practitioner is helping women in rural areas prioritise their health with a free women's health clinic which will visit the Richmond Health Service on June 14 and the Hughenden Multipurpose Health Service on June 15.

9 June 2016 - **Meet Roma Hospital's new permanent Director of Nursing & Facility Manager Margaret Wedge** - Roma Hospital's new permanent Director of Nursing and Facility Manager Margaret Wedge says she's excited about leading her staff while a new hospital is built to replace the existing facility.

7 June 2016 - **South West's Georgie Waugh wins prestigious primary health care award** - A community and practice nurse at Mungindi on the Queensland-New South Wales border has been recognised as one of Australia's outstanding primary health care nurses.

7 June 2016 - **Innovative online training for supervisors and supervisees** - An innovative online training program was launched yesterday by the Darling Downs Hospital and Health Service's (DDHHS) Cunningham Centre.

6 June 2016 - **Telehealth experiences huge growth in Charleville and surrounding areas** - Telehealth delivered consultations have doubled over two years in the western sector of the South West as more patients take the opportunity to be seen by a specialist locally and save hours of travel.

3 June 2016 - **Goondiwindi residents benefit from cardiac outreach service** - Patients with heart conditions in the Goondiwindi area have regular access to specialist cardiac outreach services thanks to an initiative of Brisbane's Princess Alexandra Hospital.

Tasmania. Department of Health & Human Services

9 June 2016 - **Health alert for floodwaters** - Public Health authorities advise the public to avoid all contact with floodwaters where possible as they may be contaminated by sewerage overflows and animal waste.

8 June 2016 - **Record Year for Elective Surgery** - Right to information documents released yesterday show more than 1,400 elective surgeries performed across Tasmania in private and not-for-profit hospitals in 2015-16, as part of the Hodgman Liberal Government's plan to drive down waiting lists.

6 June 2016 - **RHH Pharmacy Upgrade to support Nation Leading Jack Jumper Allergy Program** - The Hodgman Liberal Government's investment of \$3.7 million to redevelop the Royal Hobart Hospital Pharmacy will underpin the ongoing work of the Jack Jumper Allergy Program, which has recently played a key role in assisting Victoria to establish its own immunotherapy program.

6 June 2016 - **More Elective Surgery Procedures than ever before under Liberal Government** - More elective surgery has been performed in Tasmanian hospitals in the past year than ever before.

6 June 2016 - **Government Acts on Ambulance Wage Dispute** - The Government is keen to resolve the current industrial dispute over negotiations for employees covered by the Ambulance Officers Award.

Victoria. Department of Health

8 June 2016 - **Celebrating Victoria's inspiring health volunteers** - On Wednesday 18 May 2016 at the Abbotsford Convent, the Hon. Jill Hennessy MP the Minister for Health, and Ms Gabrielle Williams MP, the Parliamentary Secretary for Carers and Volunteers, presented 16 awards for outstanding volunteer achievement to individuals and teams.

8 June 2016 - **Rainbow Guide Another First For LGBTI Equality** - The Andrews Labor Government today released Rainbow eQuality, a new online guide to support Victoria's LGBTI community better access the services they need by helping health and community services to be more inclusive.

8 June 2016 - [Statement On Djerriwarrh Health Services](#) - A review of stillbirths and newborn deaths at Djerriwarrh Health Services going back to 2001 has now been completed.

6 June 2016 - [Labor Government's Funding Boost Opens More Beds At Barwon Health](#) - University Hospital Geelong will open up beds on Baxter Ward 7 to meet extra demand for winter thanks to a record funding boost from the Andrews Labor Government.

5 June 2016 - [Boost For Lorne Hospital To Help Wye River Fire Recovery](#) - The Andrews Labor Government today announced a \$70,000 boost for the Lorne Community Hospital to help improve counselling and support services for people affected by the Christmas Day fire.

5 June 2016 - [Victoria Leads The Way Advancing New Medicines](#) - Premier Daniel Andrews has announced a \$80 million new enterprise to accelerate the development of new medicines to treat a wide range of diseases, during his official visit to the United States.

2 June 2016 - [Melbourne And Boston Strike New Health Agreements](#) - Premier Daniel Andrews today visited the Boston Children's Hospital as part of his official US visit, announcing a new partnership with Victoria's Royal Children's Hospital in Melbourne. As two of the world's leading children's hospitals, the Boston and Royal Children's Hospitals have strong reputations for academic and medical excellence.

1 June 2016 - [New Mental Health Support To Help Paramedics Cope With Trauma](#) - A new mental health training program to better support paramedics to cope with the confronting, life-threatening emergencies they face every day will be rolled out across the state, thanks to a new partnership between Ambulance Victorian and Beyondblue.

Western Australia. Department of Health

Media Releases

10 June 2016 - [Minister for Mental Health: WA eating disorders service launched](#) - Mental Health Minister Andrea Mitchell today officially launched the WA Eating Disorders Outreach and Consultation Service (WAEDOCS).

9 June 2016 - [Minister for Mental Health: Grants for Kimberley suicide prevention training](#) - The Liberal National Government today awarded \$145,000 to organisations in the Kimberley to conduct suicide prevention training.

8 June 2016 - [Premier and Minister for Health: PCH plans to treat first patients in October](#) - Premier Colin Barnett today announced that the new \$1.2 billion Perth Children's Hospital (PCH) would begin treating its first patients in late October 2016.

7 June 2016 - [Minister for Health and Minister for Regional Development: Milestone reached for new Manjimup hospital](#) - The first stage of construction of the new Warren Health Service in Manjimup is now complete. Health Minister John Day said forward works included demolition of the corporate services building and some accommodation blocks of the old hospital, diversion of existing services and preparation of the foundations for the new building.

7 June 2016 - [Minister for Health and Minister for Regional Development: Goldfields health benefits from graduate boost](#) - International medical graduates in the Goldfields region will continue to have access to high-quality education thanks to the State Government's Royalties for Regions program.

Operational Directives

11 May 2016 - [OD 0668/16 Hospital Fees: Nursing Home Type Patient \(20 March 2016 Pension Increase\)](#) - This operational directive advises hospitals of increases in the Nursing Home Type Patient (NHTP) fees, which were gazetted on 3 May 2016. In accordance with commencement instructions in the gazette, the amended NHTP fees are legally effective from the day after gazettal, which is 4 May 2016.

New Zealand. Ministry of Health

7 June 2016 - [Increasing Rates of Deceased Organ Donation: Consultation document](#) - The Ministry of Health is developing a strategy to increase deceased organ donation and transplantation. This [consultation document \(Word 222 KB\)](#) seeks feedback on the Ministry's initial proposals to increase

deceased organ donation and transplantation in New Zealand. Proposals are based on the findings of the initial phase of the Ministry of Health's review of options.

British Medical Association

9 June 2016 - [Survey prompts call to tackle obesity](#) - Senior GPs in Wales have warned that healthcare costs will rise if the problem of obesity is not tackled.

ABOUT US

Michael Regos



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He practises in the areas of health law, insurance law, medical negligence and coronial enquiries. He represents Victorian public hospitals and their insurers, the Victorian Managed Insurance Authority and is the solicitor of choice for Australia's second-largest private health operator.

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