



HEALTH ALERT

27 February 2017

Judgements	2
Commonwealth. Fair Work Commission	2
New South Wales	2
Western Australia	3
Legislation	3
Commonwealth	3
Reports	3
Australia. Department of Health	3
Australia. Health Practitioner Regulation Agency and the boards	4
Australia. National Health & Medical Research Council (NHMRC)	5
Australia. Productivity Commission	5
Australia. Therapeutic Goods Administration (TGA)	5
Australian Digital Health Agency	5
Australian Institute of Health & Welfare	6
Australian Prudential Regulation Authority	6
New South Wales. Ministry of Health	6
New South Wales. Health Care Complaints Commission	6
Queensland. Department of Health	6
South Australia. Department for Health & Ageing	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
Australian Medical Association	8
About us	9
More information	9

JUDGEMENTS

Commonwealth. Fair Work Commission

20 February 2017 - *Renton v Bendigo Health Care Group* [2017] FWC 921 - Application for relief from unfair dismissal- decision on remedy – reinstatement inappropriate -compensation ordered.

The applicant, Mr Renton, was employed by Bendigo Health Care Group (**Bendigo Health**) up until the termination of his employment in August 2016. It was found that Mr Renton's employment was terminated because he had acted in a way that exposed his colleagues to humiliation. Despite these findings, the Fair Work Commission held in December 2016, that his termination had been 'harsh, unjust or unreasonable', because it was disproportionate to the gravity of his misconduct.

This 20 February 2017 decision concerned the appropriate remedies available to the applicant in light of his unfair dismissal. Mr Renton sought to be reinstated to his position with Bendigo Health but the Commission held this was not appropriate. In coming to this decision it took into account the lack of insight the applicant displayed into the effect of his behaviour on colleagues. Importantly, the Commission took into account the applicant's conduct following his dismissal including contact with work colleagues in contravention of a direction of Bendigo Health, and, inappropriate comments made to a supervisor. While the applicant's history did not show a course of misconduct, this factor was outweighed by his attitude leading up to and following his dismissal.

The applicant was awarded compensation reflecting an additional 17 weeks of work with the application of a 30% discount for the fact that he did not make any efforts to mitigate his loss. Compensation was reduced by a further 80% because the applicant's misconduct had contributed to the reason for dismissal.

17 February 2017 - *Australian Nursing and Midwifery Federation v Anglicare SA Limited T/A AnglicareSA* [2017] FWC 1004 - Alleged dispute about any matters arising under the enterprise agreement and the NES;[s186(6)] – enrolled nurses and the administration of medicine – interpretation of Agreement – training and skills update required by state and federal legislation – employer responsible for the provision of such training and skills updates.

The Fair Work Commission considered the liability of an employer to pay the costs associated with further training of employees required as a result of legislative amendments. Proceedings were brought by the Australian Nursing and Midwifery Federation (**ANMF**) against Anglicare SA Limited (**AnglicareSA**) in relation to an Enterprise Agreement. The dispute arose due to legislative changes which meant that a number of AnglicareSA's enrolled nurses did not have the appropriate qualifications to allow them to administer medicines. AnglicareSA required these nurses to undergo training in their own time and at their own cost, which required the nurses to take leave.

The ANMF opposed this action contending AnglicareSA was responsible for provision of training. In determining whether this was the case, the Commission considered the interpretation of Clause 14 of the Enterprise Agreement which governed the training of nurses. It was held that because the training was imposed by AHPRA it fell within the meaning of 'mandatory training and skills updates as required by state and federal legislation' as specified in Clause 14. As a result, AnglicareSA was held responsible for the provision of the training and required to pay nurses for the time taken to complete the training at ordinary rates. It was also required to adjust the leave entitlements of nurses who had already taken annual leave in order to undertake the training.

17 February 2017 - *Zenelovski and Comcare (Compensation)* [2017] AATA 188 - WORKERS COMPENSATION – De Quervain's tenosynovitis of the right wrist and secondary sprains and strains of carpometacarpal (right thumb) – liability for osteoarthritis of metacarpocarpal joint of right thumb denied – conflicting medical reports and opinions – multiple interventions and treatment of right thumb condition - DeQuervain's tendonitis diagnosed definitively 2016 and treated surgically without benefit – no significant contribution by employment – decisions affirmed

New South Wales

21 February 2017 - *Health Care Complaints Commission v Bova* [2017] NSWCATOD 28 - Pharmacy, compounding, substitution, commercially available.

21 February 2017 - [AIN v Medical Council of New South Wales](#) [2017] NSWCATAP 36 - APPEAL – privacy and personal information protection - administrative review of conduct - procedural directions – substantive procedural course decided before directions hearing – variation of interlocutory orders – provision of documents under s58 of the Administrative Decisions Review Act - alleged bias

Western Australia

23 February 2017 - [Medical Board of Australia v Singh](#) [2017] WASAT 33 - National Law; Professional Misconduct; Steroid prescription; No therapeutic basis; Inadequate records

LEGISLATION

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

Commonwealth

22 February 2017 - [National Health \(Multiple Hospitals Paperless Claiming Trial\) Special Arrangement 2017 \(PB 14 of 2017\)](#) F2017L00141 • PB 14 of 2017 as made

REPORTS

Australia. Department of Health

Media releases

23 February 2017 - [National Cancer Screening Register Statement by Commonwealth Chief Medical Officer Professor Brendon Murphy](#) - Due to the complexity of assimilating and migrating data from eight state and territory cancer registers into one register, the start date for Australia's first National Cancer Screening Register has been delayed.

23 February 2017 - [New flexible aged care places help older Australians stay at home for longer](#) - Thousands of Australians will benefit from an innovative new form of flexible aged care that will help older people remain in their own homes for longer after injury or illness.

23 February 2017- [Record results for bulk-billing shows Medicare is stronger than ever.](#) - Australian patients are getting more benefit from Medicare than ever before with GP bulk billing rates jumping to 85.4 per cent during the second half of 2016.

23 February 2017 - [Roadmap Roundtable considers next steps in aged care reform](#) - The Minister for Aged Care, Ken Wyatt AM, MP, has met with about 100 aged-care consumers and providers to consider the Government's next steps in the reform of Australia's \$16 billion aged care sector.

23 February 2017- [Suicide prevention support for Grafton community](#) - Grafton will be the first location in Australia to get one of ten new *headspace* youth mental health services, providing an increase in support available to young people and their families during times of need.

22 February 2017- [Action to deliver faster supply of medicinal cannabis products](#) - The Australian Government will facilitate faster access by qualified doctors to medicinal cannabis for patients with the necessary approvals.

22 February 2017 - [New CEO for Food Standards Australia and New Zealand \(FSANZ\)](#) - Assistant Minister for Health, Dr David Gillespie, today announced that the Board of Food Standards Australia and New Zealand has appointed Mr Mark Booth as the new CEO of the internationally esteemed food standards agency.

22 February 2017 - [Funding delivered to open gut research centre](#) - The Australian Government has delivered on its election commitment to provide \$4 million funding to make Australia's first dedicated micro gut health research centre a reality.

21 February 2017 - [\\$27 million for better Aboriginal and Torres Strait Islander health outcomes](#) - New funding of \$27m for child and maternal health programs and primary health care will help keep Aboriginal and Torres Strait Islander children healthy and ready to learn when they start school and ensure they are properly immunised.

20 February 2017 - **Turnbull Government committed to tackling obesity** - The Australian Government is taking action to tackle the challenge of obesity and encourage all Australians to live healthy lives.

20 February 2017 - **UWA leads on student online life-saving organ donor plan** - The University of Western Australia (UWA) is the first university in Australia to encourage students to help save lives by joining the Australian Organ Donor Register online.

19 February 2017 - **David Hookes cricket match celebrates donors giving others a life-saving second innings** - The Federal Minister for Aged Care and Minister for Indigenous Health, Ken Wyatt AM, MP, joined cricketers in Bendigo, Victoria, to celebrate the second innings of life made possible through organ and tissue donation.

19 February 2017 - **More action to inspire Australian girls to get active** - The Australian Government is taking action to inspire Australia's young girls and women to get active – with the launch of the next phase of the Girls Make Your Move campaign.

18 February 2017 - **\$93M investment for health workforce agencies** - A national network of agencies will be redesigned to deliver better health outcomes for people living in regional, rural and remote Australia.

Consultations

22 February 2017 - **Rewards and Recognition Program Closes 3 March 2017** -. The attached draft Rewards and Recognition Program guide has been developed to incorporate formal awards and guidance around recognising and rewarding staff at the local level. Feedback and comments provided through this survey will then be considered for inclusion in the guide prior to going to the National Staff Participation Forum for endorsement.

Australia. Health Practitioner Regulation Agency and the boards

24 February 2017 - **Quarterly registration data released** - The National Aboriginal and Torres Strait Islander Health Practice Board has released its quarterly registration data.

24 February 2017 - **Quarterly registration data released** - The National Chiropractic Board has released its quarterly registration data.

24 February 2017 - **Quarterly registration data released** - The National Physiotherapy Board has released its quarterly registration data.

23 February 2017 - **Did you find what you needed to know about making a complaint or raising a concern?** - AHPRA has launched a new survey to find out if people are getting the information they need from the new complaints and concerns area of the website.

22 February 2017 - **State and Territory - call for applications** - Call for applications for appointment to the State and Territory Boards of the National Registration and Accreditation Scheme.

22 February 2017 - **Tribunal reprimands medical researcher for professional misconduct** - The ACT Civil and Administrative Tribunal (the tribunal) has reprimanded a medical researcher, who was a registered medical practitioner, for professional misconduct and prohibited him for practising medical research for 12 months.

20 February 2017 - **Medical practitioner's registration cancelled for sexual contact with patient** - A medical practitioner's registration has been cancelled for professional misconduct after he admitted to sexual contact with a patient.

20 February 2017 - **Quarterly registration data released** - The National Board has released its quarterly registration data.

20 February 2017 - **Midwife disqualified for 18 months for professional misconduct** - A former midwife and registered nurse has been reprimanded and disqualified from applying for registration for 18 months for professional misconduct concerning a homebirth.

17 February 2017 - **Call for applications** - Call for applications for appointment to the State and Regional Boards of the Psychology Board of the National Registration and Accreditation Scheme.

17 February 2017 - [Call for expressions of interest](#) - Call for expressions of interest for panel appointments - health practitioners from Western Australia.

17 February 2017 - [Call for applications](#) - There are multiple practitioner member and community member vacancies arising on the Chinese Medicine Board.

17 February 2017 - [Call for applications](#) - Applications are now sought for practitioner member vacancies in South Australia on the Chiropractic Board of Australia.

15 February 2017 - [NSW chiropractor who claimed cancer cure convicted in landmark case](#) - A New South Wales chiropractor has been convicted of false advertising after he claimed to be able to prevent, treat and cure cancer in his advertising.

Australia. National Health & Medical Research Council (NHMRC)

22 February 2017 - [Minor Amendments to the Australian Immunisation Handbook 10th Edition](#) - The NHMRC has approved minor amendments to the Australian Immunisation Handbook 10th Edition. The NHMRC CEO has approved these amendments under section 14A of the National Health and Medical Research Act 1992 (NHMRC Act).

Australia. Productivity Commission

22 February 2017 - [NDIS Costs](#) - An issues paper outlines a range of issues on which the Commission seeks information and feedback.

Australia. Therapeutic Goods Administration (TGA)

23 February 2017 - [Australian Public Assessment Reports for prescription medicines \(AusPARs\)](#) - Added Ipilimumab (rch) (Yervoy/ Winglore)

23 February 2017 - [Submissions received: Guidance on risk management plans for medicines and biologicals](#) - Public submissions are now available for the draft guidance document.

22 February 2017 - [Medtronic Strata II / Strata NSC valves](#) - Hazard alert - potential for MRI scans to affect valve positioning.

22 February 2017 - [Access to medicinal cannabis products: steps to using access schemes](#) - Access to medicinal cannabis products in Australia - resource for doctors.

22 February 2017 - [Biolog Forte 36 mm Alumina ceramic heads - used in hip replacements](#) - Hazard alert - increased risk of requiring revision.

21 February 2017 - [TGA presentation: ARCS Seminar, Sydney, 24 January 2017](#) - This presentation provides a local perspective on recent developments in the medical technology and pharmaceutical landscape, and the future of the TGA in a global context.

21 February 2017 - [Updates to the list of designated orphan drugs](#) - Added Riluzole (TEGLUTIK).

20 February 2017 - [Conference participation by the TGA](#) - The TGA is participating in these events and conferences.

17 February 2017 - [MiniMed 640G insulin pump](#) - Recall for product correction - potential loss of therapy due to power error.

Australian Digital Health Agency

24 February 2017 - [Digital Health - Towards 2022](#) - Five years ago we could not have imagined how much technology would change our lives. So what will five years from now look like when it comes to health and care? Over the last few months the Australian Digital Health Agency has been asking just that – what are the opportunities for digital health and emerging technologies to transform health and care? On Thursday 23 February, the Agency held forums with both industry and clinicians to get together to look at the opportunities and challenges in digital health.

24 February 2017 - [The Clinical Terminology February v20170228 release is now available for download](#) - The Clinical Terminology February v20170228 release is now available for download from the National Clinical Terminology Service (NCTS) website.

22 February 2017 - [Announcement: Extension of Deadline for SM Proof of Concept RFT submissions to 10 March 2017, 5pm \(AEST\)](#) - The deadline for the Secure Messaging RFT has been extended by one week, from 3 March to 10 March 2017 to provide consortiums additional time to establish their working relationships and arrangements. Please note this is the only extension that will be granted in line with this RFT and no additional extensions will be made.

22 February 2017 - [New National Pathology Program Established](#) - The Australian Digital Health Agency is pleased to announce the establishment of a new national Pathology Program to deliver outcomes that improve interoperability, quality, safety and access to pathology results.

17 February 2017 - [The Future of Digital Health](#) - On Monday 13 February, more than 1,000 people tuned in to the Australian Digital Health Agency national webcast on the future of digital health.

Facilitated by Ellen Fanning, the webcast marked the final stage of the consultation towards a co-produced National Digital Health Strategy, due for delivery to the Australian Government in mid-2017.

Australian Institute of Health & Welfare

20 February 2017 - [Incidence of insulin-treated diabetes in Australia, 2015 fact sheet](#) and [dynamic data display](#)

Australian Prudential Regulation Authority

22 February 2017 - [APRA has released the Private Health Insurance Risk Equalisation report](#) - This report shows the net Risk Equalisation result for the financial year for each insurer.

New South Wales. Ministry of Health

Information Bulletins

24 February 2017 - [Country of Birth and Preferred Language Classification Codeset Updates - Effective 1 July 2017](#)

New South Wales. Health Care Complaints Commission

23 February 2017 - [Professor David Morris – Unsatisfactory professional conduct](#) - The Health Care Complaints Commission brought a complaint against Professor David Morris, a colorectal surgeon, concerning his decision to permit an overseas based doctor who was not registered in Australia, to operate on a patient on 6 November 2014 at St George Public Hospital as part of a lengthy peritonectomy procedure.

Queensland. Department of Health

23 February 2017 - [Hiccups? Don't come to the emergency ward please](#) - Last year, someone presented to a hospital emergency department with the hiccups, another had a blister on their foot and hundreds had splinters and sprains. We wish we were kidding.

20 February 2017 - [Emergency departments clogged by sunburn and splinter presentations](#) - New data released today shows that public hospital emergency departments are being clogged with requests for prescriptions and medical certificates, and with minor ailments like a common cold, sunburn and splinters.

19 February 2017 - [Queensland invests in meningococcal response](#) - More than 300,000 eligible 15-19 year old Queensland teenagers will have access to a free, four strain meningococcal vaccination from Term 2 of the current school year.

19 February 2017 - [Nicholls' hollow apology lost on the health workers he sacked](#) - Opposition Leader Tim Nicholls' hollow apology for his role in the Newman Government is of cold comfort to the more than 4000 health workers he across Queensland, Health Minister Cameron Dick today.

17 February 2017 - [Queensland Health teams up with Little Leagies to get kids active](#) - Queensland Health has launched an exciting partnership with [Little Leagies](#), providing \$165,000 sponsorship to continue their work in creating a culture of fitness for children.

South Australia. Department for Health & Ageing

22 February 2017 - **Greater access to pharmacy services in Port Lincoln** - Pharmaceutical services for people in the Eyre Peninsula have been enhanced following the opening of the \$950,000 purpose-built on-site pharmacy at Port Lincoln Hospital.

Tasmania. Department of Health & Human Services

23 February 2017 - **Tasmania's growing health sector** - Tasmania's health sector is a key pillar of the state's economy, providing support for people in need and offering strong career opportunities. Approximately 31800 people work in the local sector currently, with a number of openings available now and a further 5000 new jobs projected to be created in the next five years to support the growing demand for health services.

The Tasmanian and Australian Governments are currently directing significant investment toward new infrastructure and facilities for the state. This includes a \$689 million redevelopment of the Royal Hobart Hospital, Tasmania's largest ever health infrastructure project. A number of new facilities are already complete, including the state-of-the-art **Wellington Clinics** outpatient facility, the **Cancer Centre** and **new medical imaging facilities**. The hospital redevelopment is due to be completed in mid-2019.

22 February 2017 - **Federal Government changes to medical cannabis** - It is pleasing to see the Federal Government take action to improve access to unregistered medical cannabis products, by removing red tape on the importation of overseas-manufactured products.

The Government is continuing to work closely with senior clinicians on the Tasmanian Controlled Access Scheme, which will be delivered this year - as we always said it would. The CAS will allow patients to be prescribed with unregistered medical cannabis products by an appropriately qualified, specialist medical practitioner, under certain conditions, including peer review. It will achieve a balance by providing a process to prescribe medical cannabis products that are not registered under the Therapeutic Goods Administration as safely as possible with medical support.

Victoria. Department of Health

23 February 2017 - **Saving Lives – Preventing And Treating Overdose** - The Andrews Labor Government is improving access to life-saving Naloxone and strengthening support for overdose survivors to help reduce the number of people dying of drug overdoses across Victoria.

23 February 2017 - **Funding Boost To Put The Safety Of Health Workers First** - Frontline workers and patients will benefit from additional safety measures to reduce and prevent violence in hospitals and mental health services through the second round of the Andrews Labor Government's \$20 million Health Service Violence Prevention Fund. Minister for Health Jill Hennessy and Minister for Mental Health Martin Foley today announced 30 rural hospitals and nine metropolitan hospitals, as well as 10 mental health services will share in more than \$7 million in funding.

21 February 2017 - **Medicinal Cannabis Takes Big Steps Forward In Victoria** - The Andrews Labor Government is getting on with establishing a reliable, safe production pipeline for the supply of high quality medicinal cannabis for Victorian patients. The first cannabis crop grown by the Department of Economic Development, Jobs, Transport and Resources has now been harvested.

21 February 2017 - **Health Check For Racing Industry Participants** - Improving the health and wellbeing of participants in the racing industry will be the focus of a new research project announced by the Andrews Labor Government today. The \$32,600 project will examine the health of those involved in the racing industry and engage racing participants to adopt more healthy behaviors.

21 February 2017 - **Works Start On Thomas Embling Expansion** - The Andrews Labor Government is providing more mental health support with a further \$7 million to build 10 additional beds at Thomas Embling Hospital. Minister for Mental Health Martin Foley made the announcement today while turning the sod for the new \$9.5 million eight-bed Secure Psychiatric Intensive Care Unit.

20 February 2017 - **More Operating Theatres To Treat Ballarat Patients Sooner** - The Andrews Labor Government will begin planning for the next stages of development at Ballarat Health Services, including the fit-out of a shell space in the revamped hospital with even more operating theatres. Minister for Health

Jill Hennessy today announced a \$4 million boost for Ballarat Health Services to celebrate the official opening of Ballarat Base Hospital's modern, new Drummond St building.

Western Australia. Department of Health

Media Releases

22 February 2017 - **GPs embrace new hepatitis C treatments** - Western Australian general practitioners are amongst the nation's most proactive when it comes to prescribing effective new treatments for people living with hepatitis C.

20 February 2017 - **New case of meningococcal disease in a young adult** - The Department of Health today reported that a young adult has made a good recovery, and been discharged from hospital, after being diagnosed with serogroup B meningococcal disease last week.

New Zealand. Ministry of Health

22 February 2017 - **New Zealand Health Research Strategy 2017–2027: Summary of Submissions and Consultation** - This document presents key themes and actions proposed in written submissions and consultation meetings on the development of the New Zealand Health Research Strategy 2017–2027.

21 February 2017 - **Faiva Ora 2016–2021 National Pasifika Disability Plan** - Faiva Ora 2016–2021 sets out priority outcomes and actions to support and improve the lives of Pacific disabled people of all ages and their families.

20 February 2017 - **Mental Health and Addiction Workforce Action Plan 2017–2021** - The Mental Health and Addiction Workforce Action Plan identifies the priority areas and actions required to develop an integrated, competent, capable, high-quality and motivated workforce focused on improving health and wellbeing. It will guide decisions about investment and resourcing for the next five years and is relevant to all people working to improve outcomes for those with mental health and addiction issues.

Australian Medical Association

23 February 2017 - **AuMA pushes new Minister on MBS freeze** - AuMA President, Dr Michael Gannon, remains in discussions with both the Prime Minister and Health Minister about the impact of the MBS freeze and the need for the Government to lift the freeze.

23 February 2017 - **AuMA Report Card finds hospitals in state of emergency** - AuMA President, Dr Michael Gannon, said that inadequate funding has consigned Australia's public hospitals – and all the dedicated health professionals who work in them – to a constant state of emergency.

23 February 2017 - **Investing in a vision for general practice** - This week in *Australian Medicine*, Dr Richard Kidd, Chair of the AuMA's Council of General Practice, writes that the Government needs to send a strong signal that it believes in the value of general practice. He added that this should not be lip service, but shown by a real investment in the work of GPs.

23 February 2017 - **Continuity of primary care improves patient outcomes: BMJ** - UK researchers published a study this month in the British Medical Journal finding that improved continuity of care in general practice may reduce secondary care costs.

23 February 2017 - **AGPAL event partner for Family Doctor Week 2017** - AuMA welcomes Australian General Practice Accreditation Limited (AGPAL) on board as an event partner for AuMA Family Doctor Week, to be held on 23-29 July 2017. AuMA Family Doctor Week (FDW) highlights the role of GPs – the family doctors – and their value to the community and the health system as they deliver high-quality holistic health care to their patients.

23 February 2017 - **Nominations open for the 2017 AuMA Public Health Awards** - The AuMA Public Health Awards provide well-deserved recognition of the extraordinary contribution doctors and associated health groups make to health care and public health.

23 February 2017 - **Call for AuMA nominee to NPS MedicineWise Board** - The AuMA is seeking expressions of interest from members who would like to be nominated to a non-executive Director position on the NPS MedicineWise Board.

ABOUT US

Michael Regos



Michael is the head of the DLA Piper health litigation group.

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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