



HEALTH ALERT

21 SEPTEMBER 2015

Judgments	2
Australian Capital Territory (ACT).....	2
South Australia (SA).....	2
New South Wales (NSW).....	2
New Zealand (NZ).....	3
United Kingdom (UK).....	3
Legislation	3
Commonwealth.....	3
New South Wales (NSW).....	3
Northern Territory (NT).....	3
Queensland.....	3
Victoria.....	3
Reports	3
Australia. Department of Health.....	3
Australia. Department of Social Services.....	4
Australia. Health Practitioner Regulation Agency and the boards (AHPRA).....	4
Australia. Pharmaceutical Benefits Scheme (PBS).....	4
Australia. Therapeutic Goods Administration (TGA).....	4
Australian Commission on Safety and Quality in Health Care.....	4
Australia. National Blood Authority (NBA).....	5
Australian Capital Territory (ACT). Health Directorate.....	5
New South Wales (NSW). Ministry of Health.....	5
Northern Territory (NT). Department of Health.....	5
Queensland. Department of Health.....	6
South Australia (SA). Department for Health & Ageing.....	6
Tasmania. Department of Health & Human Services.....	7
Victoria. Department of Health.....	7
Western Australia (WA). Department of Health.....	8
United Kingdom (UK). Department of Health.....	8
United States of America. Department of Health & Human Services.....	8
Australian Medical Association (AumA).....	8
British Medical Association.....	8
About Us	9
More Information	10

JUDGMENTS

Australian Capital Territory (ACT)

4 September 2015 - *Hobbs v Tym & Anor* [2015] ACTSC 276

The Supreme Court has provided guidance as to the kinds of documents that must be discovered in proceedings concerning a psychiatrist's alleged negligence.

In a claim before the Court, the plaintiff alleges that the first defendant, a former psychiatrist, misdiagnosed him with attention deficit hyperactivity disorder and therefore wrongly prescribed dexamphetamine.

Before trial, the plaintiff sought an interlocutory order for further discovery of documents relating to: allegations by the Medical Board of Australia ('the Board') and the Australian Health Practitioner Regulation Agency ('AHPRA') that the first defendant misdiagnosed patients; tribunal proceedings between the first defendant and the Board; peer reviewed reports obtained by the Board; the first defendant's method of diagnosing; his ability to practice; and the reasons why the first defendant ultimately withdrew from practice.

The defendants opposed the plaintiff's application, arguing, among other things, that documents of the kind sought were largely not relevant to the proceedings.

Without knowing the precise content of each document, the Court considered that documents of the kind requested may be discoverable to the extent they rationally affect the assessment of the existence of a fact in issue. However, the Court was not satisfied that all of the documents of the kind sought would necessarily be discoverable on this basis. The Court particularly noted that a practicing certificate is not ordinarily discoverable. The Court therefore ordered the defendants to undertake a further review of the documents in their possession in order to make further discovery in line with the Court's reasons.

South Australia (SA)

18 September 2015 - *Inquest into the death of Fiona Louise Selby-Fullgrabe*

The South Australian Coroner's Court has delivered inquest findings in relation to the death of Fiona Selby-Fullgrabe who died at age 35 of coronary artery dissection.

Mrs Selby-Fullgrabe was taken by ambulance to Wallaroo Hospital on 11 May 2013 where she reported severe pain in her arms and tightness in her chest. Nurse Whale promptly activated the chest pain protocol set out in iCCnet SA Management of Chest Pain/ Suspected Acute Coronary Syndrome ('the Protocol') and started the admission processes accordingly.

Contrary to the Protocol, Dr Marsh decided to send Mrs Selby-Fullgrabe home with the plan to conduct further diagnostics based on his theory that she suffered a neurological illness. Hours after returning home, Mrs Selby-Fullgrabe appeared to suffer a seizure. She was again taken by ambulance to the Hospital where she was pronounced dead at 5:35 am on 12 May 2013.

The Coroner remarked that the Protocol serves as 'a life saving aid for regional and remote practitioners' which aims to ensure that patients who do not fit the typical profile for a cardiac patient are not overlooked. The Coroner concluded that Mrs Selby-Fullgrabe's chances of survival would have been more probable than not had Dr Marsh followed the Protocol. The Coroner further noted that Nurse Crosby had lost an opportunity to 'put the situation back on track' when she failed to take steps to reactivate the Protocol after learning of Dr Marsh's decision.

New South Wales (NSW)

15 September 2015 - *Cosmetic Laser Clinic Pty Ltd v Pirintji* [2015] NSWSC 1353.

14 September 2015 - *Health Care Complaints Commission v Bao-Quy Nguyen-Phuoc (No. 2)* [2015] NSWCATOD 94 - PROFESSIONAL MISCONDUCT - Unregistered medical practitioner - Finding of professional misconduct - Held registration cancelled as if registered - Not to seek re-registration for 3 years - Prohibition order practising as a naturopath - Costs order made.

New Zealand (NZ)

11 September 2015 - [Di-Giandomenico v Accident Compensation Corporation \[2015\] NZHC 2193](#) - Accident Compensation - medical misadventure through medical mishap.

United Kingdom (UK)

11 September 2015 - [A & Ors \(Human Fertilisation and Embryology Act 2008\) \[2015\] EWHC 2602 \(Fam\)](#) - Human Fertilisation and Embryology Authority - declaration of parentage granted.

LEGISLATION

Commonwealth

17 September 2015 - [Social Services Legislation Amendment \(No. 2\) Act 2015](#).

15 September 2015 - [Gene Technology Amendment Act 2015](#).

17 September 2015 - [Food Standards Australia New Zealand Amendment \(Forum on Food Regulation and Other Measures\) Bill 2015](#).

17 September 2015 - [Health Legislation Amendment \(eHealth\) Bill 2015](#).

17 September 2015 - [Social Services Legislation Amendment \(No Job, No Pay\) Bill 2015](#).

17 September 2015 - [Private Health Insurance \(Complying Product\) Amendment Rules 2015 \(No. 3\)](#).

17 September 2015 - [Veterans' Affairs \(Treatment Principles – Updating Home and Community Care \(HACC\) References and other References\) Amendment Instrument 2015](#).

New South Wales (NSW)

17 September 2015 - [Food Amendment \(Recording of Abattoir Operations\) Bill 2015](#).

Northern Territory (NT)

16 September 2015 - [Misuse of Drugs Amendment Bill 2015](#).

Queensland

15 September 2015 - [Coroners \(Domestic and Family Violence Death Review and Advisory Board\) Amendment Bill 2015](#).

14 September 2015 - [Health Legislation \(Waiting List Integrity\) Amendment Bill 2015*](#).

Victoria

16 September 2015 - [Public Health and Wellbeing Amendment \(No Job, No Play\) Bill 2015](#).

REPORTS

Australia. Department of Health

Media releases

17 September 2015 - [Community active in fight against childhood cancers](#) - Thousands of Australians will come together to raise awareness of the devastating impact of childhood cancers and to promote more research into these cancers in a new and innovative event.

16 September 2015 - [Doorstop press conference regarding the Southern Stars winning the Ashes, leadership, cabinet, domestic violence, women's leadership](#) - Minister for Health Sussan Ley, discussing the Southern Stars winning the Ashes, leadership, cabinet, domestic violence, women's leadership.

16 September 2015 - [Australian Health and Wellbeing on Agenda at NICNAS Roundtable](#) - Protection of Australians and the environment was on the agenda when Assistant Minister for Health Fiona Nash met representatives of the Australian chemical industry at Parliament House.

15 September 2015 - [Drownings highlight more care needed around water](#) - Minister for Health and Sport Sussan Ley urges all Australians to take care around water ways following an increase in the number of drownings over the past year.

28 August 2015 - [Pregnancy folate reminder](#) - Australia's Chief Medical Officer, Professor Chris Baggoley, has written to networks representing GPs and obstetricians alerting them to a global shortage of folic acid for food fortification that may affect Australia.

Private Health Insurance Circulars

11 September 2015 - [PHI 62/15 New Private Hospital Information.](#)

11 September 2015 - [PHI 61/15 Prostheses List Management System.](#)

Publications

31 August 2015 - [Department of Health Corporate Plan 2015-2016.](#)

[Australia. Department of Social Services](#)

11 September 2015 - [Information for Aged Care Providers Newsletter - Issue #25.](#)

[Australia. Health Practitioner Regulation Agency and the boards \(AHPRA\)](#)

17 September 2015 - [Call for applications](#) - Call for applications for appointment to the list of approved persons for appointment to panels for the Nursing and Midwifery Board of Australia, and the Victorian Board of the Nursing and Midwifery Board of Australia.

15 September 2015 - [Medical Board announces next steps on revalidation](#) - The Medical Board of Australia has today published commissioned research on revalidation and announced the next steps it will take.

11 September 2015 - [Communiqué from the Board](#) - The Chinese Medicine Board of Australia releases its latest communiqué.

[Australia. Pharmaceutical Benefits Scheme \(PBS\)](#)

15 September 2015 - [Pharmaceutical Benefits Advisory Committee \(PBAC\) Guidelines Review](#) - The public submission process on the Items to be included in the PBAC Guidelines Review is now closed. Further information on the Review is available on the PBAC Guidelines Review page.

15 September 2015 - [PBAC Public Summary Documents - March 2015](#) - Two additional Public Summary Documents for nintedanib from the March 2015 Pharmaceutical Benefits Advisory Committee (PBAC) meeting are now available.

[Australia. Therapeutic Goods Administration \(TGA\)](#)

16 September 2015 - [SeleXys TH+ and TPS acetabular shells used in hip replacements](#) - Consumers and health professionals are advised that Mathys Orthopaedics, in consultation with the TGA, has issued a hazard alert for its seleXys TH+ and TPS acetabular shells used in hip replacements due to higher than expected revision rates.

16 September 2015 - [Role of the Advisory Committee on the Safety of Vaccines \(ACSOV\) in the TGA's regulatory decision making process](#) - The ACSOV is a statutory advisory committee established by the Therapeutic Goods Regulations 1990. The TGA currently has ten statutory advisory committees from which it can obtain independent expert advice on specific scientific and technical matters to aid the TGA's regulatory decision making and other regulatory processes.

The ACSOV provides advice to the TGA and the Office of Health Protection (OHP) on, amongst other things, matters relating to the safety, risk assessment and risk management of vaccines supplied in Australia.

[Australian Commission on Safety and Quality in Health Care](#)

15 September 2015 - [Handle antibiotics with care: Antibiotic Awareness Week 2015](#) - Antibiotic Awareness Week will take place from 16–22 November and is endorsed by the World Health Organization, acknowledging the global importance of this growing public health issue.

With the theme 'Antibiotics: handle with care', Antibiotic Awareness Week 2015 encourages all Australians to play a part in addressing the threat of antimicrobial resistance.

4 September 2015 - [New report shows wide variation in antimicrobial usage in Australian hospitals](#) - A new report on antimicrobial use in Australian hospitals shows there is wide variation in usage between hospitals, indicating that although overall usage rates have decreased slightly in recent years, there is still considerable room for improvement.

The report, Antimicrobial use in Australian hospitals: 2014 report of the National Antimicrobial Utilisation Surveillance Program (NAUSP), released today by the Australian Commission on Safety and Quality in Health Care (the Commission), provides important information on how much antimicrobials are being used in Australian hospitals.

14 September 2015 - On the Radar – Issue 240 ([PDF 244KB](#)) ([Word 1042KB](#))

Australia. National Blood Authority (NBA)

16 September 2015 - [Fit for Surgery Fit for Life](#) - NPS MedicineWise and the National Blood Authority have collaborated to develop a suite of resources to help General Practitioner manage patients who are on the surgical waitlist and who may require treatment for iron deficiency and anaemia.

10 September 2015 - [Barcoding Reform Open Forum](#) - The National Blood Authority invites you to an open forum on the National Barcoding Reform for Manufactured batch products.

Australian Capital Territory (ACT). Health Directorate

14 September 2015 - [Study shows mesothelioma numbers still extremely low](#) - Initial results from a study by ANU researchers into the health risks associated with living in a home insulated with 'Mr Fluffy' loose-fill asbestos has found cases are still extremely rare.

New South Wales (NSW). Ministry of Health

Media Releases

11 September 2015 - [NSW Health urges community to exercise caution with 15 new influenza outbreaks at aged care facilities](#) - NSW Health advises that there have been 15 new outbreaks reported in aged care facilities across the state this month. So far this year, there have been 78 laboratory-confirmed influenza outbreaks in institutions in NSW, 76 of those in aged care facilities.

Publications

15 September 2015 - [Commissioning Evaluation Services: A Guide.](#)

Policy Directives & Guidelines

16 September 2015 - [Maternity - Rh \(D\) Immunoglobulin \(Anti D\).](#)

15 September 2015 - [Data Collections - Disclosure of Unit Record Data for Research or Management of Health Services.](#)

14 September 2015 - [Privacy Management Plan.](#)

Information Bulletins

17 September 2015 - [Overtime Meal Allowances.](#)

Northern Territory (NT). Department of Health

16 September 2015 - [Caution urged as stinger season approaches](#) - As Water Safety Week commences on Sunday 20 September, Territorians are being reminded to be cautious around sea water. Stinger season starts officially on 1 October and continues until 31 May, however box jellyfish stings have been recorded historically in every month of the year. As temperatures increase around stinger season and the humidity rises, the sea water becomes warmer and stingers will start to populate the coastline.

16 September 2015 - [Labor road-blocks war on ice](#) - Today the Labor Party prevented Territory Police from obtaining new powers that are urgently needed to help fight the distribution and manufacture of methamphetamines in the Northern Territory.

15 September 2015 - **Services enhance domestic violence strategy across the Territory** - Since its launch in September 2014 the Safety is Everyone's Right Strategy has been implemented in communities across the Northern Territory. The Strategy is part of the Country Liberal Government's \$6.07 million commitment per year for three years to tackling the issue of domestic and family violence.

15 September 2015 - **Keeping Territory kids safe** - More than 140 children aged between nine and 12 years at Larrakeyah Primary School today learnt first-hand about personal safety from Denise and Bruce Morcombe.

14 September 2015 - **Territory to introduce public sex offender website to protect families** - The Northern Territory will this week become the first jurisdiction in Australia to introduce legislation to Parliament for a publicly accessible website featuring the details and locations of convicted serious sex offenders. Attorney-General and Minister for Justice John Elferink today handed over the *Sex Offender and Child Homicide Offender Public Website Bill 2015*, (Daniel's Law), to Denise and Bruce Morcombe.

11 September 2015 - **Medical team deploys for Tour de Timor** - Australia's Darwin based National Critical Care and Trauma Response Centre will deploy a medical team to support the annual Tour de Timor international mountain bike race in Timor-Leste tomorrow. The internationally recognised NCCTRC has provided medical support for the 395km mountain bike race since 2011. This year's event will be held from 13th-17th September and has attracted more than 120 riders. The event provides an ideal opportunity for the NCCTRC to exercise its Australian Medical Assistance Teams in the field for the 5 day race.

Queensland. Department of Health

17 September 2015 - **August performance data – Office of the Health Ombudsman** - The Office of the Health Ombudsman (OHO) has continued in its commitment to thoroughly investigate complaints, resolve health service concerns and protect the health and safety of Queenslanders.

16 September 2015 - **Premier provides extra funding for Domestic Violence crisis line** - Premier Anastacia Palaszczuk has announced an extra \$1.2 million for domestic violence crisis support service DV Connect.

12 September 2015 - **Drought support strengthened for Central West** - Minister for Health Cameron Dick today delivered certainty for the Central West Rural Wellness Network announcing \$194,000 over two years to enhance the region's drought support programs and employ an additional outreach support worker.

12 September 2015 - **Doctors on the rise in Rural Queensland** - Rural Queensland is set to benefit from a surge in doctors with the Rural Generalist Pathway expanding to train up to 400 doctors over the next three years, with a focus on better training and increasing gender diversity.

South Australia (SA). Department for Health & Ageing

17 September 2015 - **Fast-growing mobile x-ray company to set up in South Australia** - The developer of an ultra-lightweight medical x-ray will establish its headquarters in South Australia, creating advanced manufacturing jobs. Minister for Health Industries Jack Snelling said the South Australian Government has helped Micro-X with a one-year, \$3 million loan to set up production in Adelaide. 'This investment presents long-term economic development opportunities for South Australia,' Mr Snelling said.

16 September 2015 - **National Stroke Week another reminder to look for signs of stroke** - South Australians are encouraged to undergo regular health checks, recognise signs of stroke, and understand how to reduce the risk of stroke during National Stroke Week this week. Minister for Health Jack Snelling said one in six Australians will have a stroke in their lifetime. 'Your chances of survival are significantly improved if you can recognise signs of a stroke and seek urgent medical treatment in the event of stroke,' Mr Snelling said.

13 September 2015 - **Don't become a snake bite statistic this spring** - South Australians are being warned to be on the lookout for snakes that are most active during spring. Health Minister Jack Snelling said the SA Ambulance Service responded to an average of 53 snakebites each year and last October was the busiest month for snakebites in four years. 'Snakes are most active during spring and it is important to keep an eye out for snakes and if bitten take immediate action,' Mr Snelling said.

Tasmania. Department of Health & Human Services

16 September 2015 - **Staff Appointments to Address Youth Mental Health Resources Gap** - In the 2015-16 Budget, the Hodgman Liberal Government committed \$3.2 million over four years for Children and Adolescent Mental Health Services.

15 September 2015 - **More RHH Early Works Packages Awarded** - The Hodgman Liberal Government's rescued Royal Hobart Hospital Redevelopment is creating thousands of direct and indirect jobs for Tasmania.

14 September 2015 - **The Mersey helping to reduce waiting lists** - The first sessions of additional endoscopy procedures were successfully performed at Mersey Community Hospital last week.

14 September 2015 - **Mersey Heads of Agreement** - The Commonwealth and Tasmanian Governments today released the signed Mersey Community Hospital Heads of Agreement.

Victoria. Department of Health

16 September 2015 - **Historic NDIS agreement to improve the lives of over 100,000 Victorians** - The Andrews Labor Government today signed an historic bilateral agreement with the Commonwealth outlining the rollout of the National Disability Insurance Scheme (NDIS) in Victoria over the next three years. Premier Daniel Andrews was in Canberra to sign the landmark agreement with Prime Minister Malcolm Turnbull and New South Wales Premier Mike Baird. The Labor Government will contribute funding of \$2.5 billion per year, with the Commonwealth contributing \$2.6 billion, once the scheme is fully implemented – more than doubling the current funding for disability support.

15 September 2015 - **Saying thanks to our paramedics** - Minister for Ambulance Services Jill Hennessy today joined Victorians to pay tribute to the extraordinary dedication and lifesaving skills of Victoria's paramedics. As part of the launch of Victoria's inaugural 'Thank a Paramedic Day', Minister Hennessy met with families as they were reunited with the paramedics who saved their lives.

14 September 2015 - **\$3.2 million boost for foster care** - The Minister for Families and Children, Jenny Mikakos has opened Foster Care Week by announcing a further \$1.7 million to improve engagement and support for Victorian foster carers. Speaking at the Foster Care Association of Victoria's Annual General Meeting, Ms Mikakos said the funding was in addition to the \$1.5 million foster carer recruitment and retention strategy. The additional funding will allow for a dedicated approach to foster carer retention, which has been identified as a major challenge facing Victoria's out-of-home care system.

14 September 2015 - **New guide reveals most health apps not so helpful** - Minister for Health Jill Hennessy today warned Victorians to be wary when downloading health and wellbeing apps, with a new Australian-first ratings system revealing many are ineffective and poorly designed. With VicHealth, the Minister today launched the *Healthy Living Apps Guide*. The Guide rates more than 200 phone apps that claim to help people eat better, move more, quit smoking, reduce their alcohol consumption, and improve their mental wellbeing. The highest score provided was three out of five stars – a score which only five apps achieved. The top apps were *Freeletics – Workout and Training*, *Quit Now: My Quit Buddy*, *Get Some Headspace*, *Water Balance* and *UP – Tracker Required*. The worst app of the 200 reviewed was *Smoke Free – Finally Non Smoking*, which achieved just half a star. The *Healthy Living Apps Guide* is the first independent, evidence-based review into the effectiveness of health and wellbeing apps. Apps were rated based on their quality, user-friendliness and effectiveness.

11 September 2015 - **Traralgon Ambulance Station to be upgraded** - The Andrews Labor Government today announced that Traralgon Ambulance Station will be rebuilt as part of a \$20 million investment to modernise and upgrade ambulance facilities across Victoria. Traralgon Ambulance Station is more than 30 years old and is too small, lacks secure storage and adequate facilities. The Labor Government has worked with Ambulance Victoria to identify branches across Victoria most in need of replacing, and will announce more ambulance stations which will receive upgrades in coming weeks.

11 September 2015 - **New GP training to help better treat people with disabilities** - New training modules to help general practitioners better respond to complex behaviours of patients with intellectual disabilities are now available online. The modules address gaps in current knowledge and practice as

identified in the Senior Practitioner's report, [Disability, mental health and medication: Implications for practice and policy \(2010\)](#).

Western Australia (WA). Department of Health

Media Releases

16 September 2015 - [Meningococcal disease in an older adult](#) - The Department of Health today reported that an elderly person is recovering in hospital after having been diagnosed with meningococcal disease.

15 September 2015 - [Minister for Health and Minister for Finance: Harvey Health Service contract cemented](#) - The \$13 million redevelopment of the Harvey Health Service is a step closer with the State Government appointing builders to soon start the main works.

United Kingdom (UK). Department of Health

16 September 2015 - [Ebola heroes recognised with parliamentary march](#).

15 September 2015 - [Clinics authorised to carry out abortions](#).

13 September 2015 - [From 2020, people with suspected cancer will be diagnosed faster](#).

United States of America. Department of Health & Human Services

16 September 2015 - [HHS enters into strategic alliance to accelerate new antibiotic development](#).

15 September 2015 - [HHS awards nearly \\$500 million in Affordable Care Act funding to health centers to expand primary care services](#).

15 September 2015 - [Establishment of the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria](#).

14 September 2015 - [Experimental Ebola vaccine regimen takes new steps under HHS program](#).

Australian Medical Association (AuMA)

15 September 2015 - [Malcolm a chance for a fresh start on health](#) - The AMA has urged new Prime Minister Malcolm Turnbull to lift the freeze on Medicare rebates as part of a fresh approach to health policy by the Coalition Government. AMA President Professor Brian Owler was quick to congratulate Mr Turnbull on his election as Liberal Party leader, and said the medical profession was keen to work with him on 'practical solutions' to the challenges facing the health system.

British Medical Association

16 September 2015 - [Medically assess firearms holders, urges report](#) - GPs should supply a medical report for patients who apply for firearms licences, recommends a report — echoing calls made by the BMA. A review of firearms licensing by the inspector for police forces in England and Wales published yesterday says there are 'fundamental flaws' in how police check the mental health of gun owners. It says a licence should not be given without a current medical report from a GP, paid for by the patient. GPs are not obliged to respond to police requests for medical information about potential firearms holders or note if their patients hold certificates, the report by HMIC (Her Majesty's Inspectorate of Constabulary) notes.

14 September 2015 - [BMA releases deprivation of liberty guidance](#) - New guidance designed to assist doctors is assessing the deprivation of liberty of vulnerable patients has been published by the BMA. DoLS (Deprivation of Liberty Safeguards) were introduced in 2009 as an amendment to the *Mental Capacity Act* 2005. This guidance has been developed following the Supreme Court judgments in Cheshire West, which considerably widened the number of adults deemed to be deprived of their liberty.

14 September 2015 - [Refugee crisis reaches a tipping point](#) - When junior doctor Andy Young volunteered at a refugee camp in Calais, he was shocked by the poor conditions and health problems he encountered. After volunteering at an Ebola treatment centre in Sierra Leone for six weeks, junior doctor Andy Young is no stranger to human suffering. However, he found scenes at a refugee camp in Calais sometimes more shocking than those in West Africa. Horrific injuries, broken limbs and skin infections

including scabies are common at the camp, where people live in squalid conditions just a few miles away from affluent areas.

11 September 2015 - **MPs defeat assisted dying bill** - MPs have rejected a bill to legalise assisted dying, with the BMA warning that the law would have been 'alien' to the doctor-patient relationship. A total of 330 MPs voted against the Assisted Dying Bill 2014, with 118 MPs voting in favour, following a more than four-hour debate in parliament on today. In a briefing to MPs, the BMA outlines its opposition to all forms of assisted dying, warning that a change in the law could profoundly impact the doctor-patient relationship, and potentially increases risk of harm to vulnerable patients. It says: 'The principal purpose of medicine is to improve patients' quality of life, not foreshorten it.'

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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