



# HEALTH ALERT

**9 FEBRUARY 2015**

<b>Judgments.....</b>	<b>2</b>
Western Australia .....	2
New South Wales .....	2
Queensland.....	3
<b>Legislation.....</b>	<b>3</b>
Commonwealth .....	3
<b>Reports .....</b>	<b>3</b>
Australia. Department of Health .....	3
Australia. Department of Social Services.....	3
Australia. Health Practitioner Regulation Agency and the boards.....	3
Australia. National Health & Medical Research Council.....	4
Australia. Therapeutic Goods Administration .....	4
Australian Commission on Safety and Quality in Health Care .....	5
Australia. National Mental Health Commission .....	5
New South Wales. Ministry of Health.....	5
Northern Territory. Department of Health .....	5
Victoria. Department of Health .....	6
Western Australia. Department of Health .....	6
New Zealand. Ministry of Health.....	7
United Kingdom. Department of Health.....	7
Australian Medical Association.....	7
British Medical Association .....	8
Canadian Medical Association .....	8
American Medical Association .....	8
<b>About Us.....</b>	<b>8</b>
<b>More information .....</b>	<b>9</b>

## JUDGMENTS

### Western Australia (WA)

29 January 2015 - Yoong And Medical Board Of Australia [\[2015\] WASAT 6](#)

National Law - Appellable decision - Performance and Professional Standards Panel

29 January 2015 - [Medical Board of Australia v Roberts \[2014\] WASAT 76](#)

A practitioner was found to have engaged in unprofessional conduct based on the language he used in his post-consultation notes.

The practitioner had been treating two young brothers for ADHD. He would type or dictate notes after each consultation, containing comments about the boys' progress and his recommendations for treatment. 'Progress notes' were for the practitioner's use only. 'Consultation notes' were given to the boys' mother after consultations.

The Board alleged that, on various occasions, the practitioner had given the boys' mother consultation notes which were derogatory, accusatory and threatening towards the children. In one consultation note, the practitioner refers to the boys as 'psycho manipulative' and describes their behaviour as 'complete rubbish'. In another consultation note, he described the boys as 'indulging in self-pity', engaging in 'oh woe is me' self-indulgent thinking and of being 'sooky la la'. This note also states that one of the boys should "toughen up Princess".

On another occasion, the practitioner gave a consultation note to the patients' mother which read: '...I recommend to your husband that he beat (physically) each [of your sons]... to within an inch of his life.' The Tribunal considered that the practitioner was, in fact, recommending corporal punishment (rather than just being hyperbolic, as he had contended) given he had used similar language in a progress note relating to the same consultation: 'begin corporal punishment'.

This case is a reminder for health professionals to be mindful of the language they use in clinical notes.

### New South Wales (NSW)

5 February 2015 - [Health Care Complaints Commission \(HCCC\) v Quach \[2015\] NSWCA TOD 2](#)

The NSW Civil and Administrative Tribunal found that Dr Quach, a medical practitioner diagnosed with narcissistic personality disorder, was not competent to practice on grounds of mental incapacity.

The HCCC brought this proceeding in respect of ten complaints by Dr Quach's former patients. The complaints make a long list of allegations against Dr Quach, including an allegation that Dr Quach suffers from an impairment (being narcissistic personality disorder) and that this impairment is of a sufficient nature and degree to impair his mental capacity to practice medicine.

Although Dr Quach denied that he was impaired, the Tribunal was satisfied that the practitioner in fact suffered from the personality disorder and that it had detrimentally affected him in the practice of medicine.

The Tribunal considered that the respondent had a consistent pattern of problems, which were directly attributable to his condition. His personality disorder rendered him likely to make premature diagnostic decisions and not consider differential diagnoses (among other things), thereby potentially putting the public in danger.

Along these lines, the Tribunal found that Dr Quach's ability to practice medicine was *'severely compromised, weakened and damaged because of the impact of his narcissistic personality disorder on his ability to diagnose appropriately, create appropriate treatment regimes, relate appropriately to patients, relate appropriately to his peers and otherwise conduct himself in a manner appropriate to the standards of behaviour expected within the community of medical practitioners.'*

## Queensland

### [Mules v Ferguson \[2015\] QCA 5](#)

Professions and trades - health Care professionals - medical practitioners - liability in tort - general principles - torts - negligence - statutes, regulations - applicability and effect in actions for negligence generally.

## LEGISLATION

### Commonwealth

2 February 2015 - [National Health \(Pharmaceutical Benefits \(Application to supply pharmaceutical benefits following the death of approved pharmacist — documentary evidence\) Determination 2015 \(PB 5 of 2015\)\)](#).

30 January 2015 - [Therapeutic Goods Information Specification 2009 Revocation Specification 2015](#).

30 January 2015 - [Therapeutic Goods Information Specification 2015](#).

## REPORTS

### Australia. Department of Health

Media releases

5 February 2015 - [Changes to Pharmaceutical Benefits Advisory Committee](#) - The Minister for Health congratulated Dr Suzanne Hill, the Chair of the Pharmaceutical Benefits Advisory Committee (PBAC), who will be taking up a new role with the World Health Organization.

2 February 2015 - [New maps to better identify rural, regional and remote doctor shortages](#) - Rural, regional and remote communities will find it easier to attract GPs following the Australian Government's announcement of new maps to better identify doctor shortages.

30 January 2015 - [Australia and New Zealand ministerial forum on food regulation - final communiqué](#) - The Australia and New Zealand Ministerial Forum on Food Regulation (the Forum) has met in Auckland.

### Australia. Department of Social Services

4 February 2015 - [Government response to the Dementia Forum Report](#) - The first Ministerial Dementia Forum, Dementia Care - core business for aged care was held on 11 September 2014.

3 February 2015 - [Consultation: proposed changes to financial reporting for providers of residential and home care](#) - The Department has released a discussion paper on the proposed changes to financial and prudential reporting requirements for residential and home care. Submissions are due by close of business on Friday 27 February 2015.

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

4 February 2015 - [New approach to international criminal history checks launches today](#) - A new procedure for checking international criminal history that provides greater public protection takes effect today. This approach requires [certain applicants and practitioners](#) to apply for an international criminal history check from an AHPRA approved supplier and was first announced in November last year. The supplier will provide the international criminal history check report to the applicant and directly to AHPRA.

2 February 2015 - [Court of Appeal sets aside Tribunal finding of improper conduct](#) - Dr Leila Dekker - appeal allowed. The WA Court of Appeal has set aside a WA State Administrative Tribunal's finding that Dr Leila Dekker was guilty of improper conduct. The former Medical Board of Western Australia referred Dr Dekker to the tribunal in 2006, about an incident in 2002 in which Dr Dekker had not stopped to check the passengers in a vehicle with which her car had collided. Dr Dekker had left the scene of the accident and driven to a nearby police station to report the accident.

## Australia. National Health & Medical Research Council (NHMRC)

6 February 2015 - [Health and medical researchers for the future - what does Australia need?](#) - Right now, thousands of health and medical researchers across Australia are at their desks, developing applications to the NHMRC. At the same time, new and continuing PhD students are considering their future careers. Australia has never before had a policy discussion on the nation's needs for health and medical researchers, but the time has come to think seriously about how best to use Australia's talent.

January 2015 - [NHMRC Health Tracker - January 2015](#) - Apply now: NHMRC-ARC Dementia Research Development Fellowships - feedback sought on draft principles to improve access to data for research purposes - View updated Australian Drinking Water Guidelines - submit an entry to NHMRC Science to Art competition 2015 - Update on Human Genetics Advisory Committee (HGAC) activities.

17 March 2015 - 9:00am - 18 March 2015 - 17:00pm - [NHMRC / A\\*Star Joint Scientific Symposium](#) - NHMRC / A\*STAR Joint Scientific Symposium: Molecular Mechanisms of Obesity and Metabolic Diseases In September 2011, NHMRC signed an agreement with the Agency for Science, Technology and Research, Singapore (A\*STAR) to promote and encourage research and development activities amongst researchers from Singapore and Australia.

## Australia. Therapeutic Goods Administration (TGA)

6 February 2015 - [Birmingham Hip Resurfacing system](#) - Hazard alert - additional warnings for use in certain patient groups.

6 February 2015 - [Consultation: TGA adoption of two European Union \(EU\) scientific guidelines for herbal medicines](#) - The TGA is seeking comments from interested parties on the proposed adoption of two European Union guidelines as guidance material for sponsors and manufacturers of medicines including herbal ingredients. Closing date: 10 April 2015

5 February 2015 - [Reasons for scheduling delegate's interim decision and invitation for further comment for the ACCS, February 2015](#) - Reasons for scheduling delegate's interim decision and invitation for further comment for the ACCS, February 2015. Closing date: 19 February 2015

5 February 2015 - [Public submissions on scheduling matters referred to the ACCS#12 \(November 2014\)](#) - Public submissions made in response to the delegates' proposed amendments to the Poisons Standard and the delegates' interim decision.

5 February 2015 - [Updates to the list of designated orphan drugs](#) - Added Adalimumab (HUMIRA) and Lenalidomide (REVLIMID).

5 February 2015 - [Medical devices and IVDs: Cancellations from the ARTG](#) - Four cancellations from the ARTG for Gytech Pty Ltd added.

5 February 2015 - [Reasons for scheduling delegate's interim decision and invitation for further comment for the ACMS, February 2015](#) - Reasons for scheduling delegate's interim decision and invitation for further comment for the joint ACCS-ACMS, February 2015. Closing date: 19 February 2015.

5 February 2015 - [Reasons for scheduling delegate's interim decision and invitation for further comment for the joint ACCS-ACMS, February 2015](#) - Reasons for scheduling delegate's interim decision and invitation for further comment for the joint ACCS-ACMS, February 2015. Closing date: 19 February 2015.

5 February 2015 - [Public submissions on scheduling matters referred to the joint ACCS-ACMS#10 \(November 2014\)](#) - Public submissions made in response to: the delegates' proposed amendments to the Poisons Standard; and the delegates' interim decision.

4 February 2015 - [Navigating the TGA website](#) - An overview of the TGA website - focusing on the Industry section and how you can navigate to guidance documents and where to go to submit applications online.

4 February 2015 - [Consultation: Non-steroidal anti-inflammatory drugs \(diclofenac, flurbiprofen, ibuprofen, ketoprofen, mefenamic acid and naproxen\) for oral use: proposed additional advisory statements for medicines](#) - Closing date: 18 March 2015.

2 February 2015 - [Lilly Icos Cialis 20mg tablets \(Lot numbers 05668 and AD47385 - counterfeit\)](#) - Safety advisory.

2 February 2015 - [Medicines Safety Update, Volume 6, Number 1, February 2015](#) - In this issue: Combined oral contraceptives and hormone replacement therapy - inflammatory bowel disease; Metoclopramide and neurological adverse events; Publication changes for Medicines Safety Update.

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

2 February 2015 - On the Radar – Issue 208 ([PDF 171KB](#)) ([Word 199KB](#)).

### [Australia. National Mental Health Commission](#)

#### Events

19 March 2015 - [National Close the Gap Day 2015](#).

20 February 2015 - [World Day of Social Justice 2015](#).

19 February 2015 - [TheMHS Summer Forum 2015](#).

### [New South Wales \(NSW\). Ministry of Health](#)

#### Media Releases

3 February 2015 - [New NSW Government cadetship program to boost aboriginal dental health workforce](#) - NSW Minister for Mental Health and Assistant Minister for Health Jai Rowell recently launched the Aboriginal Oral Health Cadetship for Dental Prosthetists at the NSW Centre for Oral Health Strategy at Westmead Hospital. Mr Rowell was joined by Liberal candidate for Seven Hills Mark Taylor in launching the cadetship program, saying it was part of the Government's ongoing commitment to support more Aboriginal people interested in pursuing a career in oral health to undergo training in their chosen field.

3 February 2015 - [Vital mental health first aid training to be extended to youth workers across NSW](#) - Minister for Mental Health Jai Rowell today announced \$250,000 in NSW Government funding to boost the expertise of youth workers across NSW in dealing with mental health issues among young people. The training, to be coordinated through peak body Mental Health First Aid Australia (MHFA) will provide youth workers, particularly those in rural and regional areas, with the skills and confidence to recognise signs and symptoms of common mental health problems in young people and respond effectively.

1 February 2015 - [New \\$5 million forensic labs solving crimes faster than ever](#) - Police and Emergency Services Minister Stuart Ayres and Health Minister Jillian Skinner today announced the launch of three new forensic laboratories, which will assist in the solving of crimes and keep NSW communities safer. The three laboratories are located at NSW Health Pathology's Forensic and Analytical Science Service (FASS) at Lidcombe and include a new chemical criminalistics unit, a new DNA research laboratory and a refurbished automated DNA laboratory.

#### Policy Directives & Guidelines

3 February 2015 - [Staff Specialist Emergency Physicians - Remuneration Arrangements for the period to June 2015](#).

#### Information Bulletins

3 February 2015 - [Visiting Medical Officers - Remuneration Rates](#).

### [Northern Territory \(NT\). Department of Health](#)

5 February 2015 - [Don't risk dengue fever: Protect yourself when travelling in the tropics](#) - The Centre for Disease Control (CDC) has issued an alert reminding Territorians of the risk of dengue fever when they travel.

4 February 2015 - [Multi- million dollar boost to youth services](#) - The Giles Government is set to invest an additional \$4.2 million to support youth services across the Territory.

## Victoria. Department of Health

5 February 2015 - **Melton's Melbacc Respite Facility Saved** - Minister for Health Martin Foley and Melton MP Don Nardella have fought successfully to save the Melbacc respite facility, which elderly parents caring for adult children with a disability rely on. Melton City Council recently decided it could no longer afford to operate the centre, despite the fact that alternative facilities were too far away.

5 February 2015 - **Parents continue to ignore warnings about hot cars** - Ahead of this weekend's forecast hot temperatures, the Andrews Labor Government is urging parents not to leave children unattended in parked cars. Paramedics have been called to 200 cases of kids being left in cars across Victoria since the start of the year, and new research shows one in three parents admit to leaving their child alone in a vehicle during hot weather. The survey of 1,000 Victorian parents found that making a quick trip into a convenience store or takeaway food outlet was the main reason parents left children alone in parked cars.

4 February 2015 - **Victorians Forced To Wait Too Long For Treatment** - Under the Liberals, Victorians waited too long for emergency treatment and elective surgery, the Productivity Commission's Report on Government Services has confirmed. In 2013-14, almost half a million Victorians waited more than four hours in emergency departments for treatment, failing to meet the national target. This represents around a third of the total number of people who presented to emergency departments. The report also shows that more than 5400 Victorians waited more than 365 days for their elective surgery in 2013-14, the worst performance of all mainland states.

3 February 2015 - **Premier Speaks Out to Stop More Federal Cuts** - The Abbott Government is preparing to cut millions of dollars in funding that helps people avoid homelessness. Premier Daniel Andrews wrote to Prime Minister Tony Abbott in December in an effort to extend the National Partnership Agreement on Homelessness, which provided \$22.8 million in funding for Victorians at risk in 2014-15.

30 January 2015 - **Centre for Victims of Sexual Assault to Receive Funding** - The Andrews Labor Government has stepped in to ensure victims of sexual assault in the Wimmera region receive better support. The Barwon Centre Against Sexual Assault (CASA) in Horsham has been provided a \$10,000 grant to build shower facilities. Along with other recent upgrades to the Centre, this will ensure individuals no longer have to travel to other regional centres for some specialist services. CASAs provide support, information and counseling to victims of sexual assault across Victoria, as well as access to medical care and legal processes.

30 January 2015 - **Report Confirms Ambulance Crisis Under the Liberals** - Victoria's ambulance response times were worse under the Liberals, the Productivity Commission's Report on Government Services has confirmed. In 2013-14, one in ten ambulances took more than 22 minutes to arrive at Code 1 emergency scenes, well above the 15 minute target, making Victoria the worst on the mainland.

## Western Australia. Department of Health

### Media Releases

5 February 2015 - **Pool owners warned of disease risk** - As the weather warms up, pool and spa owners are being warned to take precautions to avoid potentially fatal disease risks.

5 February 2015 - **Minister for Mental Health: New report on Halls Creek liquor restrictions** - A State Government report released today shows reductions in alcohol-related harm in Halls Creek have been sustained five years after liquor restrictions were introduced in 2009.

4 February 2015 - **Minister for Mental Health: Kicking goals for suicide prevention in Broome** - Multi-award winning Kimberley suicide prevention project, Alive and Kicking Goals, officially opened its new offices today in the Chinatown district of Broome.

4 February 2015 - **Community invited to have their say on cancer prevention** - WA Health is inviting the public to have their say on cancer prevention in Western Australia through a special online survey.

3 February 2015 - **Fiona Stanley Hospital's Emergency Department open** - At 7am this morning, Fiona Stanley Hospital's Emergency Department opened.

3 February 2015 - [2014 Change Day pledge made good](#) - This time last year Dr Nick Waldron, a consultant geriatrician and the clinical lead in the Falls Prevention Network at Armadale Hospital, made a pledge for Change Day 2014 which has been successfully seen through.

2 February 2015 - [Premier and Minister for Health: Emergency departments scrubbing up for change](#) - The third and largest phase of Fiona Stanley Hospital kick-starts tomorrow when the doors to the emergency department open at 7am, at the same time as the Fremantle Hospital emergency department closes, in a highly involved and complex transition.

Operational Directives (OD)

29 January 2015 - [OD 0587/15](#) - WA Health Safe Use of Medication Refrigerators Policy - All WA public hospitals and health care facilities are required to immediately commence implementation of the minimum requirements for the safe storage of temperature-sensitive medicines and vaccines in dedicated medication refrigerators as outlined in this Operational Directive.

29 January 2015 - [OD 0586/15](#) - WA Health Disability Access and Inclusion Policy.

29 January 2015 - [IC 0215/15](#) - WA Health - HSUWA - PACTS Industrial Agreement 2014 - Registration of the WA Health - HSUWA - PACTS Industrial Agreement 2014.

29 January 2015 - [IC 0214/15](#) - WA Health Engineering and Building Services Industrial Agreement 2015 - Registration of the WA Health Engineering and Building Services Industrial Agreement 2015

### **New Zealand. Ministry of Health**

5 February 2015 - [Reduce medicine costs with the prescription subsidy card](#) - New Zealanders can save money on medicines by making sure they get their prescription subsidy card as soon as they are eligible for it.

18 January 2015 - Grey Matter Newsletter - [Issue 18, 2015 December \(pdf, 490 KB\)](#)

### **United Kingdom (UK). Department of Health (DH)**

6 February 2015 - [New measures to end female genital mutilation \(FGM\) on International Day of Zero Tolerance.](#)

5 February 2015 - [DH non-executive appointments.](#)

2 February 2015 - [The Department of Health's agencies and partner organisations.](#)

30 January 2015 - [New language ability checks for EU trained healthcare workers.](#)

30 January 2015 - [New funds to kickstart joint working with NHS and councils this winter.](#)

30 January 2015 - [Conference puts UK's role in global healthcare in the spotlight.](#)

30 January 2015 - [NHS and Department of Health investigations into Jimmy Savile.](#)

30 January 2015 - [Prevention and control of infections: code of practice.](#)

29 January 2015 - [National health screening: government response.](#)

29 January 2015 - [Regulation of health and social care professionals: response.](#)

29 January 2015 - [Establishing food standards for National Health Service \(NHS\) hospitals.](#)

### **Australian Medical Association (AuMA)**

4 February 2015 - [Productivity Commission highlights efficiency and value for money of Australia's hardworking GPs](#) - AuMA President, A/Prof Brian Owler, said today that the latest Productivity Commission report highlights yet again that general practice is the most efficient and cost-effective part of the Australian health system. A/Prof Owler said that the Commission's *Report on Government Services 2015* illustrates the key role that GPs play in the health system, and the value that the community gets from the Government's investment in general practice.

## British Medical Association (BMA)

5 February 2015 - **Emergency department admissions hit record high** - Emergency medicine attendances in Scotland last year were the highest since records began.

4 February 2015 - **NHS 111 failings expose non-clinical care.**

4 February 2015 - **Free-trade deal threat to NHS persists.**

4 February 2015 - **Northern Ireland joins tobacco packaging plan** - Standardised tobacco packaging will be introduced in Northern Ireland. England is already pressing a...

3 February 2015 - **Government sounds out early point of registration outcome.**

2 February 2015 - **Isle of Man steps up appeal for GPs** - More GPs are being recruited to the Isle of Man following a three-year campaign by doctors.

30 January 2015 - **BMA restates concerns over 'place-of-safety' policy.**

29 January 2015 - **Call to staff medical schools effectively** - Medical schools need adequate staffing levels to ensure continued excellence in research.

29 January 2015 - **GPs' commissioning role under pressure, says report** - GPs are becoming disengaged with their role in commissioning services because of day-to-day working.

## Canadian Medical Association (CMA)

30 January 2015 - **CMA echoes premiers' call on Ottawa to collaborate on seniors.**

## American Medical Association (AMA)

5 February 2015 - **Physicians agree: Vaccination crucial to public health** - An AMA Viewpoints post by AMA President Robert M. Wah, MD. - As physicians, we know the importance of keeping each individual patient as healthy as possible. With the issue of vaccinations getting increased attention in political discourse, now is a good time to review the AMA's policies.

3 February 2015 - **Changes to messy meaningful use program welcome** - An AMA Viewpoints post by Barbara L. McAneny, MD, chair of the AMA Board of Trustees. - Last week, the Centers for Medicare & Medicaid Services (CMS) announced it would be modifying meaningful use requirements to streamline the program's reporting procedures for physicians.

3 February 2015 - **How to answer patients' questions about vaccinations** - The issue of vaccinations recently has dominated the news, and it's likely that your patients will be asking questions about the safety of the measles, mumps and rubella (MMR) vaccine for children.

2 February 2015 - **New medical ethics journal provides practical guidance** - The new AMA Journal of Ethics, launched this month, offers valuable insights into ethical decision making and the challenges medical students and physicians confront in their training and daily practice. The February issue investigates professionalism, empathy and the role of the "hidden curriculum"

## ABOUT US

### Mark Williams



Mark is a partner in the Litigation and Regulatory team at DLA Piper.

Mark's focus is on public liability and professional indemnity insurance and associated litigation. He has particular experience with medical negligence claims and the complex insurance and indemnity arrangements prevalent in the resources, mining, building and construction industries.

Mark also acts for the regulators of the medical and other health professions.



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