



HEALTH ALERT

1 JUNE 2015

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JUDGMENTS

Australia. Family Court

22 May 2015 - *Re Ashley* [2015] FamCA 37

The Family Court has found that a 17 year old child is competent to consent to cross-sex hormone treatment for his gender identity dysphoria. The Court held that Ashley was able to fully understand the proposed treatment, and to give his informed consent for it to be carried out.

The Court noted that while Ashley was born female, he has identified as male from an early age. The Court heard evidence from Ashley's family, and staff from the hospital where he proposes to undergo treatment. It found there was no controversy about Ashley's diagnosis or wishes, and that all persons involved in Ashley's care were supportive of his desire to undergo treatment.

The Court noted that Ashley's family feared for his mental health if he could not have the hormone treatment. It noted evidence from medical staff in relation to higher risks of mental health issues and self-harm among young people with gender identity dysphoria.

The Court noted that although it has power under the *Family Law Act 1975* (Cth) to authorise medical treatment of children, it was not necessary to make an order in this case because Ashley was competent to make his own decision about the treatment.

The Court made an order that Ashley is competent to consent to specified medical treatment, including hormone treatment as recommended by his paediatrician or psychiatrist. The Court noted that this form of order would not present any difficulties for Ashley in receiving treatment from the relevant hospital.

Victoria

28 May 2015 - *Inquest into the death of Naomi Charmain Mahon* COR 2011 001282

The Victorian Coroners Court has investigated the circumstances surrounding Ms Mahon's death, finding that she intentionally took her own life and that psychiatric illness and the effects of cannabis had contributed to her death.

Immediately prior to her death, Ms Mahon had been apprehended by Victoria Police under section 10 of the *Mental Health Act 1986* (Vic) as a person likely to harm herself, and was transported to Monash Medical Centre. Psychiatric staff at the hospital decided to admit Ms Mahon, but while they were momentarily facing away, Ms Mahon absconded. Hospital staff notified police, who located the deceased after she had already committed suicide.

John Snowden appeared at the inquest on behalf of Monash Health. No adverse findings were made against the hospital, and the coroner held that there was no evidence to support a finding that any want of clinical care on the part of the medical staff had caused or contributed to Ms Mahon's death.

In her findings, the Coroner acknowledged the new *Mental Health Act 2014* (Vic), which introduces fresh criteria for involuntary treatment and revises the assessment and treatment order process. The Coroner noted that:

'While it remains to be seen how the 2014 Act will operate in practice, it is hoped that the treatment and engagement of people such as Ms Mahon can be improved, and that the number of deaths in similar circumstances to those in which Ms Mahon died, can be reduced.'

New South Wales

28 May 2015 - *Zraika v Walsh* [2015] NSWSC 645

Practice and procedure – application by defendants pursuant to Uniform Civil Procedure Rules 2005 (NSW), r 23.8 for order that sample of plaintiff's blood be tested for congenital infections – application made after date for service of experts' reports in proceedings and in circumstances where trial date may be jeopardised – whether making of order nevertheless in the interests of justice – order made.

15 May 2015 - [Casey v Pel-Air Aviation Pty Ltd \[2015\] NSWSC 566](#)

Negligence – whether injuries compensable under the *Civil Aviation (Carriers Liability) Act 1959* (Cth) - relevant rules of statutory construction - construing International Conventions - the purpose of the Montreal Convention – proper construction of s 9E of the *Civil Aviation (Carriers Liability) Act* – post traumatic stress disorder (PTSD) claim – PTSD and the proper construction of Article 17 of the Montreal Convention – evidence establishes that plaintiff's PTSD is a compensable 'bodily injury'.

29 May 2015 - [Ameisen v Medical Council of New South Wales \[2015\] NSWCATOD 49](#)

Professional discipline – medical profession - application for reinstatement by deregistered practitioner – rehabilitative steps – present fitness – application granted subject to strict conditions.

29 May 2015 - [Health Care Complaints Commission v Senior \[2015\] NSWCATOD 50](#)

Unsatisfactory professional conduct - professional misconduct - boundary violations - personal relationship with prison inmate - misleading and deceptive conduct - cancellation of registration - disqualification.

Queensland

6 May 2015 - [Pharmacy Board of Australia v Sternes \[2015\] QCAT 161](#)

Health care professionals – pharmaceutical chemical chemists – disciplinary proceedings – whether conduct amounts to unsatisfactory professional conduct – where pharmacist convicted of indictable offences – where conduct upon which convictions relate amount to professional misconduct – where personal misconduct of such a serious nature as to be discreditable to the profession – whether pharmacist a registrant for the purposes of s 385A of the *Health Practitioners (Disciplinary Proceedings) Act 1999* - where pharmacist not a registrant for purposes of s 385A of the *Health Practitioners (Disciplinary Proceedings) Act 1999*.

LEGISLATION

Commonwealth

26 May 2015 - [Private Health Insurance Amendment Act 2015](#) - C2015A00057 - Act No. 57 of 2015 as made. Sections 1-3 commenced 26th May 2015.

29 May 2015 - [National Health \(Listed drugs on F1 or F2\) Amendment Determination 2015 \(No. 4\)](#).

28 May 2015 - [Poisons Standard June 2015](#).

28 May 2015 - [Australia New Zealand Food Standards Code - Standard 1.4.2 - Maximum Residue Limits Amendment Instrument No. APVMA 4, 2015](#).

Australian Capital Territory

21 May 2015 - [Medicines, Poisons and Therapeutic Goods Amendment Regulation 2015 \(No 1\)](#).

New South Wales

26 May 2015 - [Public Health \(Tobacco\) Amendment \(E-cigarettes\) Bill 2015](#).

South Australia

29 May 2015 - [Advance Care Directives Variation Regulations 2015](#).

28 May 2015 - [Consent to Medical Treatment and Palliative Care Variation Regulations 2015](#).

REPORTS

Australia. Department of Health

Media releases

28 May 2015 - [New agreement for the Mersey Hospital](#) - North-Western Tasmanians will continue to receive high-quality care at the local Mersey Community Hospital following a \$148.5 million in-principle agreement between the Commonwealth and Tasmanian Governments.

27 May 2015 - [Consumers big winners from medicines deals](#) - The price of common medicines could be slashed for millions of Australians.

27 May 2015 - [Introduction of the Medical Research Future Fund Bill 2015](#) - The Australian Government is focused on ensuring Australia's best and brightest medical researchers remain at the forefront of developing treatments and cures.

27 May 2015 - [Pharmaceutical Benefits Scheme to be reformed](#) - Australians will benefit from cheaper medicines, a more competitive pharmacy sector and greater investment in new medicines and patient support services.

25 May 2015 - [Grants for Sporting Schools Now Open](#) - Schools across the country can now apply for funding grants as part of the Australian Government's \$100 million Sporting School's programme aimed to get more children fit and healthy and involved in sport earlier in life.

22 May 2015 - [Appointments to the Pharmaceutical Benefits Advisory Committee](#) - Health Minister Sussan Ley has announced the appointment of Professor Andrew Wilson as the new Chair of the Pharmaceutical Benefits Advisory Committee.

22 May 2015 - [Consultation extended for national diabetes conversation](#) - The Australian Government is extending the consultation period for the National Diabetes Strategy to allow more public input into the nation's largest conversation about diabetes.

22 May 2015 - [New funding arrangements to boost after hours GP Services](#) - Australians will receive improved access to a local doctor after-hours under a new payment model that will encourage General Practices to treat patients outside of business hours.

Private Health Insurance Circulars

28th May 2015 - [PHI 32/15 Private Day Hospital Information](#).

[Australia. Department of Social Services \(DSS\)](#)

26 May 2015 - [Implementation of the Commonwealth Home Support Programme webinar](#).

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

29 May 2015 - [NHMRC early advice: Brain Research through Advancing Innovative Neurotechnologies \(BRAIN\) Initiative](#).

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

28 May 2015 - [Medtronic Australasia - US consent decree on SynchroMed drug infusion system](#) - The TGA is aware of regulatory action undertaken by the US Food and Drug Administration (FDA) in relation to the SynchroMed drug infusion system.

28 May 2015 - [Slim Fit capsules](#) - Slim Fit capsules pose a serious risk to your health and should not be taken.

28 May 2015 - [Consultation: Invitation for public comment - Advisory Committee on Chemicals Scheduling \(ACCS\) meeting and joint ACCS and the Advisory Committee on Medicines Scheduling \(ACMS\) meeting](#) - Public consultation on the proposed amendments to the Poisons Standard (Chemicals). Closing date: 25 June 2015.

26 May 2015 - [Medicines and vaccines post-market vigilance - statistics for 2014](#) - An overview on aspects of post-market monitoring of medicines and vaccines in Australia.

26 May 2015 - [Medical devices post-market vigilance - statistics for 2014](#) - An overview on aspects of post-market monitoring of medical devices in Australia.

26 May 2015 - [Medical Devices Safety Update, Volume 3, Number 3, May 2015](#) - In this issue: Retain devices linked with adverse event reports; Laparoscopic morcellator review; Pleural catheters; Recent safety alerts.

22 May 2015 - [ResMed devices that use Adaptive Servo-Ventilation therapy](#) - Recall for product correction - additional affected devices.

22 May 2015 - [TGA presentation given at the Sydney Children's Hospital Network Research Governance, 31 March 2015](#) - This presentation provided an overview of the TGA's role in controlling access to unapproved therapeutic goods, including in clinical trials.

22 May 2015 [Information for registered users of the Australian Adverse Drug Reaction Reporting System \(ADRS\)](#) - Updated information for registered users of the ADRS.

22 May 2015 - [Good Manufacturing Practice \(GMP\) clearance application process improvements](#) - The TGA is working on improving our ability to meet demand by reforming our processes.

21 May 2015 - [Natalizumab and melanoma](#) - Final update - no definite link established.

1 May 2015 - [Consultation: Orphan drugs program](#)- The TGA is seeking comments from interested parties on the Orphan drugs program discussion paper. Closing date 15 June 2015.

30 April 2015 - [Consultation: Draft OTC medicine monographs for Bromhexine hydrochloride; Dextromethorphan hydrobromide; Laxatives: Docusate sodium and/or sennosides; Hand sanitisers](#) - The TGA is seeking comments from interested parties on the draft OTC medicine monographs for Bromhexine hydrochloride, Dextromethorphan hydrobromide, Docusate sodium and/or sennosides and hand sanitisers. Closing date: 11 June 2015.

Australian Institute of Health & Welfare (AIHW)

26 May 2015 - [Development of a national education and training data standards strategy and implementation plan](#).

Australian Commission on Safety and Quality in Health Care (ACSQHC)

25 May 2015 – On the Radar – Issue 224 ([PDF 91KB](#)) ([Word 126KB](#))

Australia. Private Health Insurance Administration Council

28 May 2015 - [Statistical Release – March quarter 2015](#) - Quarterly Statistics Released.

Australia. Pharmaceutical Benefits Scheme (PBS)

27 May 2015 - [Recommendations made by the Pharmaceutical Benefits Advisory Committee \(PBAC\) - April 2015 PBAC Special meeting](#) - The recommendations made by the PBAC in the April 2015 PBAC Special meeting are now available.

27 May 2015 - [PBS Access and Sustainability Package including the Sixth Community Pharmacy Agreement](#) - The Australian Government recognises the important role that community pharmacists and pharmacies play in our health system and is committed to supporting pharmacies across Australia providing access to PBS medicines and effective health care services.

Australia. National Mental Health Commission

29 May 2015 - [Seclusion and Restraint Position Paper released](#) - Decisive action needed on commitments made ten years ago to reduce and eliminate the use of seclusion and restraint in mental health. The National Mental Health Commission will use its address at the 10th National Seclusion and Restraint Forum in Melbourne today to call for a nationally consistent approach to reporting on and reducing the use of seclusion and restraint.

Australian Capital Territory (ACT). Health Directorate

26 May 2015 - The ACT's health sector is well prepared for winter, but all ACT residents should assist in minimising the impact of infectious disease over the winter months by being well prepared, Minister for Health Simon Corbell said today. [Read more](#).

New South Wales (NSW). Ministry of Health

Media releases

28 May 2015 - [NSW succeeding in closing the gap between HIV diagnosis and treatment](#).

28 May 2015 - [Domestic Violence Experts Gather to Shape Disclosure Scheme](#).

Policy directive

26 May 2015 - [Allied Health Professionals' Right of Private Practice in NSW Health Facilities](#).

Information bulletins

25 May 2015 - [National Aboriginal and Islander Day Observance Committee \(NAIDOC\) Week 2015](#).

25 May 2015 - [Junior Medical Officer - 2016 Clinical Year Annual Recruitment Campaign Dates](#).

22 May 2015 - [Hairdressers Employed in the NSW Health System](#).

Queensland. Department of Health

Media releases

28 May 2015 - [Gladstone Ambulance Station refurbishment officially open](#) - Minister for Health and Minister for Ambulance Services Cameron Dick met paramedics, a former patient and a young local hero as he officially opened the refurbished Gladstone Ambulance Station. Mr Dick said the \$1.8 million project of improvements to the station had delivered a more modern facility that would better suit the needs of paramedics.

26 May 2015 - [Strategy for End-of-Life Care launched](#) - Minister for Health Cameron Dick this morning launched Queensland's *Statewide Strategy for End-of-Life Care* which will ensure people and their families confronting a terminal illness receive the high standard of care they deserve.

25 May 2015 - [10,000 Steps to continue under Palaszczuk Government](#) - The Palaszczuk Government is keeping Queenslanders healthy by fulfilling its election promise to fund the state-wide 10,000 Steps program. 'This is about encouraging Queenslanders to make positive changes to their lifestyle in order to maintain their health,' Premier Anastacia Palaszczuk said.

24 May 2015 - [Palaszczuk Government abolishes LNP's gag clause](#) - The Palaszczuk Government has shown its commitment to free speech by removing a gag on non-government organisations in the health sector which receive government funding.

South Australia (SA). Department for Health & Ageing

20 May 2015 - [Suicide prevention grants available](#) - SA Health is encouraging community groups, non-government organisations and businesses to apply for grants to deliver activities that support suicide prevention with nine days left until the application process closes.

Tasmania. Department of Health & Human Services

[Request for Proposals - Provision of Out of Home Care Services – Special Care Packages](#) - As part of the ongoing reform to Out of Home Care in Tasmania, Children and Youth Services, Department of Health and Human Services are developing a Register of Preferred Providers to deliver Special Care Packages for children with extra-ordinary needs.

28 May 2015 - [Flu Vaccination](#) - With the winter flu season expected to start soon, Tasmanian health authorities say now's the time to get your flu vaccination.

27 May 2015 - [Huge boost to frontline health in tomorrow's budget](#) - Tomorrow's State Budget will deliver a huge boost to the delivery of frontline health services in Tasmania. Last year the Hodgman Liberal Government delivered the biggest ever investment in Tasmania's health system and this year we will provide another huge funding boost for essential public hospital services, including elective and emergency surgery.

Victoria. Department of Health

27 April 2015 - [National Seclusion and Restraint Reduction Forum](#) - The 10th National Seclusion and Restraint Reduction Forum (28 & 29 May 2015) aims to reinvigorate the national conversation about reducing seclusion and restraint. The theme for the forum is 'From here to there: Shaping the path to harm free care'. In recognition of over a decade of commitment to reducing the use of restrictive practices, the theme asks presenters and participants to reflect on real world lessons and the innovation and ideas that have arisen from research and practice.

26 May 2015 - [Hazelwood Mine Fire Inquiry Reopened](#) - The Andrews Labor Government today reopened the Hazelwood Mine Fire Inquiry to get to the bottom of community health concerns following the 2014 fire and consider rehabilitation at the Latrobe Valley's coal mines.

24 May 2015 - [Health and environment studies commence in Gippsland Lakes](#) - A study to assess mercury levels in fish of the Gippsland Lakes will commence from tomorrow, followed by a broader environmental study into the accumulation of mercury and other heavy metals in the sediment of the Lakes. These studies will provide a baseline for any further work required to maintain the health of one of Victoria's most important waterways.

Western Australia (WA). Department of Health

Media Releases

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

22 May 2015 - [Western Australian women receiving better care during pregnancy](#) - More Western Australian women are beginning antenatal care in the first trimester of pregnancy, according to a report released today.

22 May 2015 - [Minister for Health: \\$13 million hospital project set in concrete](#) - A \$13 million investment to revitalise hospital infrastructure and amenities at the Harvey Health Service is a major step closer with a shortlist of builders for the project expected next month.

Operational Directives (OD)

27 May 2015 - [National Women-Held Pregnancy Record](#) - (OD 0605/15) In 2014 WA Health agreed to implement the National Women Held Pregnancy Record (NWHPR) that was endorsed by Australian Health Ministers in January 2013. Following twelve months of use within maternity services the NWHPR has undergone extensive review.

New Zealand. Ministry of Health

28 May 2015 - [Cannabis Use 2012/13: New Zealand Health Survey](#)

United States of America. Department of Health & Human Services (HHS)

May 28, 2015 - [New Affordable Care Act payment model seeks to reduce cardiovascular disease](#) - Speaking today at the White House Conference on Aging regional forum in Boston, Health and Human Services Secretary Sylvia M. Burwell announced a unique opportunity for health care providers to decrease cardiovascular disease risk for tens of thousands of Medicare beneficiaries by assessing an individual patient's risks for heart attack or stroke and working with them to reduce those risks.

Australian Medical Association (AuMA)

28 May 2015 - [AMA plan to improve teamwork between GPs and Pharmacists to provide better patient care](#) - The AMA has provided the Government with a proposal to make non-dispensing pharmacists a key part of the future general practice health care team so that GPs can deliver even better care for their patients.

25 May 2015 - [Expert panel recommends rural training experience for junior doctors](#) - The AMA welcomes the recommendation of an Independent Expert Panel for the Government to re-introduce a program to provide junior doctors with a rural general practice experience as part of their prevocational training.

24 May 2015 - [Time to talk openly about death and dying](#) - The AMA joins with Palliative Care Australia to urge Australians to be more open within families and the broader community about death and dying, and discuss formerly taboo issues such as end of life care, during National Palliative Care Week, which commences today.

22 May 2015 - [AMA Media Release - New arrangements will improve After Hours GP services](#) - The AMA welcomes the changes to funding for After Hours GP services announced today by Health Minister, Sussan Ley.

Canadian Medical Association (CMA)

27 May 2015 - **Cross-Canada Review of Palliative Care Models Unearths Gems** - Innovative palliative care delivery models hold keys to high-quality care.

ABOUT US

Mark Williams



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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.

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