



HEALTH ALERT

10 MARCH 2014

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JUDGMENTS

New South Wales

27 February 2014 - [Kashyap v Sydney Local Health District \[2014\] NSWSC 182](#)

The plaintiff was born by caesarean section at approximately 25 weeks gestation, was intubated shortly after birth and transferred to the Neonatal Intensive Care Unit (NICU). During his time in NICU, he was extubated, however he did not tolerate it and was reintubated. A month later, a cerebral ultrasound showed evidence of cystic periventricular leukomalacia (PVL). The plaintiff developed severe cerebral palsy with spastic quadriplegic pattern consistent with the severity of his PVL. Proceedings were commenced alleging that the plaintiff's cerebral palsy was caused by the defendant's negligence in extubating him.

Both parties sought to have the issues of liability and causation separately determined from the assessment of damages. In determining whether to make such an order, Judge Harrison considered that a determination of liability and causation against the plaintiff would conclude the proceedings and, in so doing, would avoid the parties incurring the substantial cost of preparing and conducting a hearing as to the proper assessment of damages in a minor with severe cerebral palsy. If the issue of liability and causation was determined in the plaintiff's favour, the damages dispute should be able to be negotiated between the parties as the likely range of damages may be anticipated.

Her Honour held that the overall circumstances of the case warranted a departure from the usual situation of hearing issues together and ordered a separate trial on the issue of liability and causation as agreed between the parties.

5 March 2014 - [Health Services Union East and Director-General, NSW \[2014\] NSWIRComm](#)

Notification of dispute under s 130 of the *Industrial Relations Act 1996 (the IR Act)* - application under s 136(1)(a) of the *IR Act* - application concerns the translation into the NSW Health Services Health Professionals (State) Award (the Award) of Cheryl Watterson's employment by the respondent as a Director, Nutrition and Dietetics, Greater Newcastle Acute Hospital Network (GNAHN), Hunter New England Local Health District (HNELHD) as at 30 November 2007 - structure of HNELHD - the Award translation process - relevant Award provisions - principles of Award construction - whether Ms Watterson's role akin to a "Head of Department" role - significance of the title "Director, Nutrition and Dietetics" - whether GNAHN a clinical network - whether error in the review process - "geographic region" and "zone" - "major functions and work areas" - descriptors under Level 8, Schedule B to the Award considered - orders.

Western Australia

25 February 2014 - [Nursing and Midwifery Board of Australia and Guildford-Taylor \[2014\] WASAT 24](#)

The practitioner was an Enrolled Nurse and was found guilty of professional misconduct. The practitioner gave a false medical history that she had breast cancer and used her medical knowledge, language and terminology to impersonate a medical practitioner - an Oncology Registrar - in order to procure the insertion of a venous infusaport in circumstances where there was no clinical justification for it. The practitioner was using the venous infusaport to take crushed Phenergan tablets intravenously.

The Tribunal found the practitioner guilty of professional misconduct as her actions were fraudulent, misleading and deceptive, she knowingly deceived fellow health practitioners and that she must have been aware that her actions would potentially compromise fellow health practitioners. While the Tribunal formed the view that her actions were inconsistent with being a fit and proper person to hold registration in the profession of nursing, they also thought that it would constitute professional misconduct in a general sense. While the practitioner's conduct was not strictly within her work as a nurse and did not involve patients, the Tribunal considered that there was sufficient nexus with her profession as she used her medical knowledge and her conduct was directed at fellow practitioners. Tribunal also found that the practitioner had an impairment in terms of substance abuse or dependence.

The appropriate disciplinary consequences of the Tribunal's Decision have not yet been determined and will be at a later stage.

Queensland

7 February 2014 - [Martin v Australian Health Practitioner Regulation Agency \[2014\] QCAT 052](#)

Professions and trades - Health care professionals - medical practitioners - licences and registration - other matters - the Committee took immediate action suspending the registrant's registration – the registrant sought a stay of the Board's decision – whether a stay of the Board's decision should be granted.

United Kingdom

28 February 2014 - [Sinclair v Conventry & Warwickshire Partnership National Health Service \(NHS\) Trust \[2014\] UKEAT 0286_13_2802](#). This is an appeal by Ms H Sinclair from the Judgment and Reasons of an Employment Tribunal sitting in Birmingham in May and July 2012. Judgment was reserved, and the written Reasons, running to 32 pages, were sent to the parties on 11 July 2012.

LEGISLATION

Commonwealth

5 March 2014 - [National Health Amendment \(Simplified Price Disclosure\) Bill 2013](#).

28 February 2014 - [Therapeutic Goods Amendment \(2013 Measures No. 1\) Act 2014](#).

REPORTS

Australia. Department of Health & Ageing

6 March 2014 - Keynote address to the general practice registrars Australia conference 2014.

Australia. Health Practitioner Regulation Agency and the boards

3 March 2014 - The osteopathy board releases its latest communiqué. [Read More](#).

4 March 2014 - The chiropractic board releases its latest communiqué. [Read More](#).

4 March 2014 - The medical board of Australia has released a joint media statement with the Australian Medical Council regarding the launch of a new intern framework. [Read More](#).

4 March 2014 - The board has responded to discussion about advertising and social media. [Read More](#).

6 March 2014 - The physiotherapy board of Australia releases its latest communiqué. [Read More](#).

6 March 2014 - The occupational therapy board of Australia invites occupational therapists in New South Wales and the Australian Capital Territory to a free breakfast forum. [Read More](#)

6 March 2014 - The Dental Board of Australia releases its latest communiqué. [Read More](#).

Australia. National Health & Medical Research Council

4 March 2014 - [Resource for Health Practitioners: Prostate Specific Antigen \(PSA\) testing in asymptomatic men](#). In Australia, around 20,000 new cases of prostate cancer are diagnosed each year. The early detection and management of prostate cancer, however, remains a complex issue. To help inform discussions between health practitioners and their patients about the early detection of prostate cancer, the National Health and Medical Research Council (NHMRC) has today released a resource outlining the risks and benefits of Prostate Specific Antigen (PSA) testing. [Read more](#).

7 March 2014 - [NHMRC Research Tracker](#).

Australia. Therapeutic Goods Administration (TGA)

6 March 2014 - [Medical Devices Safety Update, Volume 2, Number 2, March 2014](#).

5 March 2014 - [Compositional guideline: DHA/EPA rich Schizochytrium algal oil](#): Added to current compositional guideline page.

4 March 2014 - [Compositional guideline: Alanylglutamine](#): Added to current compositional guideline page.

4 March 2014 - [Orphan drugs](#): Added Anti-H5N1.

4 March 2014 - [FreeStyle Papillon Mini blood glucose monitoring system](#): FreeStyle Papillon Mini blood glucose monitors can potentially give incorrect blood glucose results.

4 March 2014 - [Submissions and TGA response: Chloramphenicol, propamidine, dibromopropamidine and sulfacetamide for ophthalmic use: proposed advisory statements for medicines.](#):

3 March 2014 - [Advisory Committee on Non-prescription Medicines \(ACNM\)](#): Updated ACNM members.

3 March 2014 - [Public submissions on scheduling matters referred to ACCS #9, ACMS #10 and the joint ACCS-ACMS #7 \(November 2013\)](#): Public submissions made in response to the invitation for public submission on the proposed amendments to the Poisons Standard.

3 March 2014 - [ACSMD meeting statement, Meeting 6, 21 February 2014](#): Advisory Committee on the Safety of Medical Devices meeting statement.

3 March 2014 - [Updates to the Prescribing medicines in pregnancy database](#).

3 March 2014 - [Advisory Committee on the Safety of Medicines \(ACSOM\)](#).

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

[Medication Safety Update February 2014](#)

10 March 2014 - On the Radar Issue 165 ([PDF 168KB](#)) ([Word 356KB](#)).

3 March 2014 - On the Radar Issue 164 ([PDF 101KB](#)) ([Word 164KB](#)).

[Australia. National Blood Authority](#)

5 March 2014 - MyABDR is now available for use by people with bleeding disorders MyABDR is a secure app for smartphones (Android and iOS) and a web site for people with bleeding disorders or parents/caregivers to record treatments and bleed. [Read more](#).

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

Media Releases

7 March 2014 - [Ongoing Measles Outbreak in NSW Drives Push for Vaccination](#).

Information Bulletins

3 March 2014 - [Notification of Obsolete Policy Directive - PD2008_053](#).

4 March 2014 - [NSW Ambulance Service - Living Away from Home Allowance](#).

4 March 2014 - [Notification of Obsolete Policy Directive - PD2005_048](#).

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

6 March 2014 - [Robyn Lambley - NT calls on commonwealth government to address aged care crisis](#). Minister for Health, Robyn Lambley, today reiterated her call for the Commonwealth Government to address the aged care crisis affecting the Territory. This follows news that Frontier Services would be closing the Tracy Aged Care facility in Darwin.

28 February 2014 - [Robyn Lambley - eight fold increase in nurse practitioners in the territory](#). The Country Liberals Government will deliver an eight-fold increase in nurse practitioners throughout the Territory Government's clinics and health services.

28 February 2014 - [Robyn Lambley - new alcohol statistics again show BDR was a useless tool](#). The Country Liberals Government has today released new analysis that clearly shows Labor's scrapped banned drinker register was useless in the fight against alcohol abuse.

Queensland. Department of Health

3 March 2014 - **Indigenous eye van has first patients in sight**. A \$5 million Queensland Health funded project aimed at treating and preventing avoidable blindness in Aboriginal and Torres Strait Islander communities has seen its first patients in Toowoomba today.

4 March 2014 - **Calling all budding fashion designers for Project SPF**. A new sun safety campaign targeting the state's fashion-conscious young women has been unveiled by Queensland Health.

5 March 2014 - **First babies born at Beaudesert Hospital in 10 years**. Beaudesert Hospital has welcomed the birth of its first three babies since the Birthing Unit was closed by the former Government 10 years ago.

6 March 2014 - **Respected doctor's advocate welcomes improved contracts**. Better working conditions and entitlements provided by new contracts to 650 Visiting Medical Officers (VMOs) in Queensland Hospitals have been recognised in the final report of their industrial advocate, outlined in State Parliament today.

6 March 2014 - **Statement by Health Minister, Lawrence Springborg**. Health Minister Lawrence Springborg has welcomed a positive exchange with doctors' representatives leading to a new dialog on the implementation of contracts for Senior Medical Officers.

7 March 2014 - **New dental chairs for Maryborough**. The opening of six new dental chairs is set to further improve oral health waiting times across Maryborough and the Wide Bay.

Tasmania. Department of Health & Human Services

5 March 2014 - **Free vaccinations at school to prevent serious illness**.

5 March 2014 - **Improving care in Children and Youth Services**.

Victoria. Department of Health

4 March 2014 - **Protect yourself and others against flu**.

3 March 2014 - **Food safety warning on raw eggs (3 March 2014)**.

Western Australia. Department of Health

Media Releases

28 February 2014 - **Work under way on \$6million Peel training centre**:

- Sod turned at \$6million Challenger Institute of Technology training centre in Mandurah
- Funded by Royalties for Regions under Skills Training Initiative
- Will help meet demand for skilled health and community service workers

Operational Directives (OD)

5 March 2014 - **OD 0509/14** Post Implementation Review Policy ICT Project Completion is not the end of the project management process, there is a need to ensure that the lessons learned during the project becomes part of corporate knowledge. Conducting a timely and thorough ICT Post Implementation Review (PIR) will help identify lessons learned which will assist in planning, managing, and meeting the objectives of future projects.

5 March 2014 - **OD 0508/14**. Network access policy. There is a mandatory requirement to establish principles by which the identity, specifically the electronic identity, of natural persons who have a relationship with WA Health as well as their access privileges are managed across WA Health. This process forms part of an identity management system which aims to ensure that unauthorised electronic access to information, systems and physical areas, and potentially fraudulent activities are prevented.

5 March 2014 - **OD 0507/14**. Information & Communications Technology (ICT) Procurement Policy. As a large purchaser of ICT goods and ICT services, WA Health recognises its statutory obligations for its procurement practices while still aiming to achieve the objective to reduce costs and redress any unfair

advantage to particular sections of the ICT market place. There are a number of WA Government Procurement documents to ensure appropriate due diligence, probity, integrity, fairness and consistency which must be complied with.

5 March 2014 - [OD 0506/14](#). Information & Communications Technology (ICT) Physical & Environmental Security Policy. As information accessibility is essential to business operations WA Health is committed to providing effective ICT facilities physical environment conditions and security to safeguard equipment and information from unauthorised intrusion and damage.

5 March 2014 - [IC 0180/14](#) Gas Hot Water Systems – Areas north of the 26 degrees south latitude adjustment to the level of subsidy payable to tenants occupying Government Regional Officers Housing (GROH) for gas used in the operation of gas hot water systems. Variation to subsidy due to changes in the consumer price index since last reviewed, up to a maximum of \$ 33.00 per month from 1 July 2013.

New Zealand. Ministry of Health

4 March 2014 - [Annual Report on Drinking-water Quality 2012–2013](#).

7 March 2014 - [Report on the Performance of General Practices in Whānau Ora Collectives as at September 2013](#).

United Kingdom. Department of Health

6 March 2014 - [Independent midwives: insurance options outlined](#).

4 March 2014 - [New nursing apprenticeships for those who have proven they can care](#).

28 February 2014 - [National Health Service \(NHS\) to tackle long waits for dementia assessments](#).

28 February 2014 - [Department of Health and RB settlement](#) (The Department of Health and RB are pleased jointly to announce settlement of the claim brought against RB in connection with the supply of Gaviscon to the NHS in England).

United States of America. Department of Health & Human Services

5 March 2014 - [National Colorectal Cancer Awareness Month](#).

Australian Medical Association (AuMA)

7 March 2014 - [AuMA welcomes Minister's willingness to resolve doctor contract crisis](#). The Federal AuMA, AuMA Queensland (AuMAQ), and other doctor groups welcome the decision of Queensland Health Minister, Lawrence Springborg, to enter into a new dialogue with the medical profession. [Read more](#).

5 March 2014 - [Talking notes - Minister Assisting the Prime Minister for Women Senator the Michaelia Cash](#). [Read more](#).

5 March 2014 - [Talking notes - Senator for the Northern Territory, Nova Peris, AuMA release of Women's Health Position Statement](#). [Read more](#)

5 March 2014 - [Talking points - AuMA President Dr Steve Hambleton - AuMA Position Statement on Women's Health](#). [Read more](#)

5 March 2014 - [AuMA President Dr Steve Hambleton, Parliament House. Women's Health](#). [Read more](#)

5 March 2014 - [AuMA shines light on violence against women and the health needs of disadvantaged and minority groups of women](#). [Read more](#).

4 March 2014 - [AuMA President, Dr Steve Hambleton, ABC Gold Coast, Queensland Hospital contracts](#). [Read more](#)

3 March 2014 - [Diary Note AuMA Position Statement on Women's Health 2014](#). Media alert - diary note. [Read more](#)

3 March 2014 - [Expanding pharmacists' role must link with general practice to achieve improved patient outcomes](#). Australia's general practice leaders are concerned fragmentation of patient care could

be the result of recent proposals to expand pharmacists' scope of practice as a solution to medical workforce. [Read more.](#)

British Medical Association (BMA)

6 March 2014 - [Employers alerted to acting-up allowance for specialty doctors.](#) Specialty doctors who take on the work of consultants will receive an 'acting-up' allowance.

5 March 2014 - [Consultant leaders press government on shape of seven-day services.](#) Consultant leaders are asking the government tough questions about seven-day services and their affordability, consultants heard today.

5 March 2014 - [Call to monitor privatisation of the National Health Service \(NHS\).](#) The BMA should monitor and publicise the privatisation of the NHS, consultants said.

5 March 2014 - [Demand for closer collaboration with primary care.](#) GPs and consultants should find more collaborative ways of working.

5 March 2014 - [Demand for consultants' pay research.](#) The BMA should undertake a study comparing the average pay of consultants across the UK nations.

5 March 2014 - [Call to extend cervical cancer vaccine to boys.](#)

4 March 2014 - [Call to extend examination of impact of working longer.](#) The impact of work patterns on ageing NHS staff should remain under review, a report recommends.

Canadian Medical Association (CMA)

4 March 2014 - [CMA to discuss end-of-life issues with members across country.](#) The CMA, which in February launched a [nationwide series](#) of public forums on end-of-life (EOL) care, is also hosting five [separate sessions](#) to allow members to make their personal views known.

American Medical Association (AMA)

6 March 2014 - [CMS chief talks practice transformation, easing regulatory load.](#)

In the midst of one of the most intensive regulatory periods for physicians, Centers for Medicare & Medicaid Services (CMS) Administrator Marilyn Tavenner Wednesday told doctors that the agency is working toward easing their burden and finding resources to help them transition to new care delivery and payment models.

6 March 2014 - [CME activity provides insight into professional satisfaction.](#) A new continuing medical education (CME) activity shines light on the drivers of professional satisfaction and practice sustainability, highlighting key findings from AMA research.

4 March 2014 - [AMA Welcomes High Court Review of Federal Infringement on States' Powers.](#) The AMA is grateful that the U.S. Supreme Court has agreed to re-evaluate a case in which the federal government is interfering with the ability of state regulatory boards to protect public health and safety.

ABOUT US

Caroline Atkins



Caroline Atkins is the Office Managing Partner for the Canberra office of DLA Piper and has worked extensively in the health sector for Australian Government agencies. Her experience includes the conduct of major technology projects for the health sector, such as in the e-health and aged care sectors, and in advising the Commonwealth on the implementation of policy programs in contractual arrangements (including for medical indemnity insurance and for CSO arrangements for PBS funding). She has also advised the National Blood Authority on major Commonwealth contracts for the supply of blood products including with the Red Cross and CSL. Caroline's commercial experience extends over 30 years and also includes significant experience in ICT outsourcing, whole-of-government technology procurements, intellectual property rights licensing, contract management, procurement strategy and dispute resolution.

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