



HEALTH ALERT

18 April 2016

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JUDGMENTS

South Australia

11 April 2016 - *Inquest into the death of Roswitha Maria Osang*

Mrs Osang presented to the Tanunda Medical Centre while travelling interstate after her ankles became swollen and she had difficulty walking. She made an appointment with Dr Urlwin who prescribed a number of medications, including Solatol, which she took as directed. The following day, she began to feel sick and arranged a further consultation with Dr Urlwin. When she presented to the medical centre some hours later, she was vomiting and required a wheelchair to get inside. Later that afternoon, Dr Urlwin ordered she be evacuated to a hospital in Adelaide, but she died shortly after the transferring ambulance arrived at the medical centre.

An autopsy revealed her cause of death as cardiac arrest due to atherosclerotic and hypertensive heart disease. During the inquest, Dr Urlwin conceded that he missed the severity of Mrs Osang's heart failure and accepted that he commenced Solatol with an inadequate basis. Several expert reports revealed that Solatol inhibited the body's ability to release adrenalin in a critical situation. Both experts described the use of Solatol as aggravating, but not causing Mrs Osang's death.

The Coroner concluded that this case provided an opportunity to reflect on the difficulties confronted by rural practitioners who are faced with a heavy patient load and high turnover of transient patients, and that Dr Urlwin's mistakes were understandable in that context. It was recommended that oversight bodies consider whether it is necessary to alert the general practice community to the risks involved in prescribing Solatol for untreated heart failure.

New South Wales

8 April 2016 - *B v St Vincent's Hospital Sydney Limited [2016] NSWSC 392*

The plaintiff appealed against a Community Treatment Order (**the order**) made by the Mental Health Review Tribunal (**the Tribunal**) in November 2015. The order was based on, and gave legal force to, a treatment plan prepared by the professional staff of St Vincent's Hospital. It required the plaintiff to submit to monthly depot injections of Paliperidone, an antipsychotic medication. The Tribunal explained that it was satisfied that the plaintiff was experiencing symptoms of mental illness at the time of the order. It stated that discharge of the order was "the least restrictive alternative consistent with safe and effective care" for the plaintiff.

The substance of the evidence adduced by the plaintiff corroborated St Vincent's Hospital's case in opposition to the appeal. The court found this was indicative of the plaintiff's refusal to accept the importance of treating the Bipolar Affective Disorder with which he was diagnosed.

The court agreed with the Tribunal's reasoning in relation to the therapeutic benefit to the plaintiff of the order in place. The court noted that the plaintiff had a history of refusing to accept treatment, and that he was likely to relapse into an active phase of mental illness if the order under appeal were to be set aside, and the protective care of service providers is a paramount consideration. Further, the court was satisfied that no other option of a less restrictive kind, that is consistent with safe and effective care, is appropriate and available for the plaintiff. The proceedings were dismissed.

Australian Capital Territory

8 April 2016 - *Opbroek bhnf Crittall v Australian Capital Territory [2016] ACTSC 64*

PRACTICE AND PROCEDURE – application for leave to amended statement of claim – medical negligence case – proposed additional claims of negligence – whether Limitation Act 1985 (ACT) s 30B applicable – discretionary considerations – reasons for late amendment - no newly obtained evidence – presumed prejudice to defendant – application refused

13 April 2016 - [Health Care Complaints Commission v Bova \[2016\] NSWCATOD 43](#)

Pharmacy, compounding, substitution, commercially available

14 April 2016 - [Health Care Complaints Commission v Ostendorf \[2016\] NSWCATOD 44](#)

Civil and Administrative Tribunal – Occupation Division – Power to review decisions already published – whether function of Tribunal administrative in nature

Victoria

11 April 2016 - [Medical Board of Australia v Fox \(Review and Regulation\) \[2016\] VCAT 408](#)

Medical Practice Act 1994 (Vic), Health Professions Registration Act 2005 (Vic), Health Practitioner Regulation National Law (Victoria) Act 2009 (Vic); allegations of unprofessional conduct and professional misconduct; prescribing schedule 8 poisons without or in excess of permit; inappropriate prescription and medical management; inadequate record-keeping; joint agreed submission on findings; extenuating circumstances created by doctor 's isolated rural practice, and relevance to determination.

LEGISLATION

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

11 April 2016 - [Private Health Insurance \(Health Insurance Business\) Rules 2016](#) F2016L00503, as made

8 April 2016 - [My Health Records Amendment \(Advance Care Planning Information and Professional Representatives\) Rule 2016](#) F2016L00499, as made

8 April 2016 - [Private Health Insurance \(Data Provision\) Rules 2016](#) F2016L00497, as made

Australian Capital Territory

13 April 2016 - [Smoke-Free Legislation Amendment Bill 2016](#) - Assented [Act No 20 of 2016]

New South Wales

8 April 2016 - [Health Records and Information Privacy Amendment \(Exemption\) Regulation 2016 \(SR 170/2016\)](#)

6 April 2016 - [Assisted Reproductive Technology Amendment Act 2016 No 11](#) - Commencement: 4/05/2016 The remainder of the Act commences 28 days after the date of assent to this Act: s 2(1). 6/04/2016 Schedule 1 [1], [2], [6]–[8], [18] and [21] commence on the date of assent to this Act: s 2(2)

South Australia

12 April 2016 - [Mental Health \(Review\) Amendment Bill 2015 \(87 of 2015\)](#) - Second reading

12 April 2016 - [Health and Community Services Complaints \(Budget Report\) Amendment Bill 2015 \(No. 80 of 2015\)](#) - Passed, awaiting assent

Victoria

13 April 2016 - [Drugs, Poisons and Controlled Substances Amendment \(Administration of Schedule 3 and 4 Poisons by Pharmacists\) Regulations 2016 \(No. 20 of 2016\)](#) - These Regulations come into operation on 13 April 2016: r 3

REPORTS

Australia. Department of Health

Consultations

12 April 2016 - [Before you attend Early Intervention Training for Managers \(a pilot\)](#) - The Early Intervention for Managers training is designed to develop and enhance the capabilities of managers in identifying the need for Early Intervention and responding appropriately in accordance with departmental

guidelines. It will help develop and strengthen the relationship between managers and the Work Health and Safety Section to implement solutions for supporting employees through injury and illness. It is envisaged that there will be positive outcomes for potential compensation claims through the effective implementation and management of early intervention strategies.

Media releases

11 April 2016 - [New guidelines for organ transplantation released](#) - A record number of Australians benefited from receiving an organ transplant in 2015 with 1,241 Australians receiving a life changing transplant from the generosity of 435 deceased donors and their families.

8 April 2016 - [New four-strain flu vaccine available from this month](#) - A new four-strain flu vaccine, protecting against the nasty Brisbane virus, is being made available for at-risk Australians for free from this month by the Australian Government.

Private Health insurance circulars

13 April 2016 - [PHI 28/16 - Declaration of Neo-natal Facilities, Joondalup Health Campus, WA](#)

13 April 2016 - [PHI 27/16 - New Private \(same day\) Hospital Information](#)

12 April 2016 - [PHI 26/16 - Private Health Insurance and Norfolk Island](#)

7 April 2016 - [PHI 25/16 - New Version \(Version 1.12.0.2\) of Check-It 2 Released](#)

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

14 April 2016 - [PowerPoint to help students understand regulation of pharmacists](#) - The path from study to a career in pharmacy and the requirements for registration are now explained in a PowerPoint.

14 April 2016 - [Newsletter from the Board](#) - The Aboriginal and Torres Strait Islander Health Practice Board of Australia releases its latest newsletter.

14 April 2016 - [Tribunal reprimands doctor, disqualifies him from registration for two years](#) The State Administrative Tribunal of Western Australia (SAT) has reprimanded a doctor.

13 April 2016 - [Board infographic shows a pharmacist's obligations](#) - An infographic showing the obligations of a registered pharmacist has been published today by the Pharmacy Board of Australia (the Board).

13 April 2016 - [Guidelines for the National Psychology Exam are now updated](#) - The Guidelines for the National Psychology Exam (the Guidelines) have been updated and the new version is now available on the Board's website.

13 April 2016 - [Nurse suspended from practice for 12 months](#) - A tribunal has suspended a nurse's registration after finding he engaged in professional misconduct.

8 April 2016 - [Nursing and midwifery regulation at work in Australia, 2014/15](#) - The Nursing and Midwifery Board of Australia (the NMBA) has released its report for 2014/15.

8 April 2016 - [Chiropractic regulation at work in Australia, 2014/15](#) - The Chiropractic Board of Australia (the Board) has released its report for 2014/15.

8 April 2016 - [Physiotherapy regulation at work in Australia, 2014/15](#) - The Physiotherapy Board of Australia (the Board) has released its report for 2014/15.

8 April 2016 - [Medical radiation practice regulation at work in Australia, 2014/15](#) - The Medical Radiation Practice Board of Australia (the Board) has released its report for 2014/15.

8 April 2016 - [Aboriginal and Torres Strait Islander health practitioner regulation at work in Australia, 2014/15](#) - The Aboriginal and Torres Strait Islander Health Practitioner Board of Australia (the Board) has released its report for 2014/15.

8 April 2016 - [Psychology regulation at work in Australia, 2014/15](#) - The Psychology Board of Australia (the Board) has released its report for 2014/15.

8 April 2016 - [Occupational therapy regulation at work in Australia, 2014/15](#) - The Occupational Therapy Board of Australia (the Board) has released its report for 2014/15.

8 April 2016 - [Osteopathy regulation at work in Australia, 2014/15](#) - The Osteopathy Board of Australia (the Board) has released its report for 2014/15.

7 April 2016 - [Greater awareness needed: Dangers of button battery ingestion](#) - If swallowed, lithium button batteries (also known as 'disc batteries') can cause serious chemical burns or death.

Australia. Therapeutic Goods Administration (TGA)

12 April 2016 - [ACPM meeting statement, Meeting 308, 5 February 2016](#) - Advisory Committee on Prescription Medicines, Meeting 308 statement, 5 February 2016.

12 April 2016 - [Australian Public Assessment Reports for prescription medicines \(AusPARs\)](#) - Added Eltrombopag (Revolade) and Follitropin alfa rch (Bemfolia, Afolia).

11 April 2016 - [Updates to the list of designated orphan drugs](#) - Added Pegaspargase (ONCASPAR).

11 April 2016 - [Ranzhishou slimming capsules](#) - Safety advisory.

8 April 2016 - [Flu vaccine: 2016 seasonal influenza vaccines for use in children](#) - 2016 influenza vaccines registered and available for use in children.

8 April 2016 - [Weight loss: beware of buying unregulated products online](#) - Weight loss products that promise quick and easy results may seem like an attractive option, but buying unregulated products online from overseas can cause you to seriously risk your health, lose your money and possibly break the law.

7 April 2016 - [Consultation: Proposed amendments to the Poisons Standard, July 2016 \(Medicines\)](#) - Invitation for public comments on delegate initiated scheduling proposals - ACMS meeting July 2016.

Australian Institute of Health and Welfare (AIHW)

6 April 2016 - [National opioid pharmacotherapy statistics \(NOPSAD\) 2015](#)

Australian Commission on Safety and Quality in Health Care

On the Radar – 11 April 2016 – Issue 268 ([PDF 117KB](#)) ([Word 150KB](#))

Australia. National Mental Health Commission

11 April 2016 - [The economic cost of physical ill-health and serious mental illness](#) - A new report released by the Royal Australian and New Zealand College of Psychiatrists (RANZCP) confirms recommendations from the National Mental Health Commission's National Review Contributing Lives, Thriving Communities.

New South Wales. Ministry of Health

Media Releases

13 April 2016 - [Domestic violence disclosure scheme launched](#) - People at risk of domestic violence will now have an important resource to turn to as a result of the trial of an Australian-first domestic violence disclosure scheme.

12 April 2016 - [OHMR Innovator - Issue 5](#) - The OHMR Innovator is a regular newsletter that will update you on the status of the Office for Health and Medical Research initiatives. Issue 5 is a feature issue on Rural and Remote initiatives and activities.

8 April 2016 - [Student Health Survey 2014](#) - The 2014 School Students Health Behaviour Survey is the eleventh survey in a series that commenced in 1984.

1 April 2016 - [Future bright for Randwick Hospitals campus](#) - Health Minister Jillian Skinner today celebrated a major milestone in the construction of a new 10-storey, \$114 million building at the Randwick Hospitals Campus.

Policy Directives & Guidelines

13 April 2016 - [Pre-Exposure Prophylaxis of HIV with Antiretroviral Medications](#)

13 April 2016 - [Official Travel](#)

Information Bulletins

14 April 2016 - [Oral Health Fee for Service Schedule of Fees 2016](#)

Northern Territory. Department of Health

13 April 2016 - [BreastScreenNT goes mobile for 2016](#) - More than 1000 women in some of the Territory's most far-flung regions will be screened by the Health Department's BreastScreenNT bus over the next six months. The big pink 4x4 bus will travel more than 7000km and visit 14 different locations as it brings this vital service to Territory women living in places like Kalkarindji, Hermannsburg, and Borroloola.

12 April 2016 - [Some of the Myths and Facts about Sexual Assault Explained](#) - April is Sexual Assault Awareness Month and the Central Australia Health Service's Sexual Assault Referral Centre (SARC) believes it is an appropriate time to look at the myths and facts related to sexual assault. "We need to be outspoken and courageous, support our brothers and sisters who have experienced sexual violence by 'Breaking the Silence' surrounding sexual assault," said Dr. Jennifer Delima, Director, Addiction and Clinical Forensic Medicine at the Alice Springs Hospital. The theme for Sexual Assault Awareness Month 2016 is Prevention is Possible.

Queensland. Department of Health

13 April 2016 - [How to stay on your feet and avoid serious injury](#) - This April No Falls month, Queensland Health is encouraging all older Queenslanders to look at ways they can reduce their risk of serious injury.

11 April 2016 - [The next generation of dentists are getting cutting their teeth in the industry at the Townsville Hospital and Health Service's \(THHS\) Kirwan campus](#) - A partnership between James Cook University and THHS will see 13 dental students in their final year will complete on the job training under the supervision of senior clinicians. The partnership has increased the number of training places offered each year from eight to 13.

8 April 2016 - [Queensland driving national reform of medicinal cannabis](#) - Health Ministers meeting in Perth today agreed to Queensland's proposal that steps should be taken to co-ordinate the use and control of medicinal cannabis across State and Territories.

8 April 2016 - [Zika testing ramps up in Townsville](#) - A major expansion of Townsville Hospital's pathology laboratory has provided additional capacity to screen for Zika virus in North Queensland.

South Australia (SA). Department for Health & Ageing

12 April 2016 - [Improved local surgical services](#) - Patients at Riverland General Hospital will receive improved colonoscopy and endoscopy services under changes being implemented over the coming weeks. Dr Peter Joyner, Director of Medical Services, Riverland Mallee Coorong, Country Health SA (CHSA) said a new approach would ensure Riverland patients have world-class access to appropriate specialists.

7 April 2016 - [SA Pathology test results](#) - SA Pathology is today contacting 42 clinicians regarding prostate cancer screening test results which were accurate, but accompanied by an incorrect comment. Chief Medical Officer, Professor Paddy Phillips, said the incorrect comment recommended referral to a urologist, but the correct recommended course of action for such results should have been retesting in 6 to 12 months.

Tasmania. Department of Health & Human Services

14 April 2016 - [12 new residential rehabilitation beds open in the North West](#) - Today I was very pleased to officially open the Salvation Army run Drug Rehabilitation Treatment Centre in Ulverstone, which consists of 12 new drug and alcohol rehabilitation beds.

13 April 2016 - **Hodgman Liberal Government support for Medical Cannabis** - The Hodgman Liberal Government is a long-standing supporter of clinical trials and the potential use of medical cannabis products.

12 April 2016 - **Ambulance ramping reduces under Hodgman Liberal Government** - The Hodgman Liberal Government recognises that ramping is a longstanding issue for all health systems, which is why since coming to Government we have worked with our health professionals to reduce ambulance ramping to the lowest level in many years.

9 April 2016 - **Long wait patients benefit from weekend surgery schedules** - The Liberal Government is committed to reducing the amount of time that Tasmanians have to wait for elective surgery. Today, eleven extra patients received surgery under a program of weekend elective surgery.

8 April 2016 - **Ante-natal risks to be targeted nationally following Tasmanian proposal** - I am pleased to announce that at the Council of Australian Governments meeting in Perth today, the Tasmanian Government has been successful in putting preventive approaches to maternal and child health onto the national agenda.

Victoria. Department of Health

12 April 2016 - **Medicinal Cannabis Legalised In Victoria** - Victorian patients and their families will be able to legally access medicinal cannabis in exceptional circumstances with the historic Access to Medicinal Cannabis Bill 2015 passing the Parliament today. Victoria is the first state in Australia to make medicinal cannabis available to people in exceptional circumstances, safely, securely and lawfully.

10 April 2016 - **Patients In Ballarat To Get Their Surgery Sooner With Australia's Largest Ever Elective Surgery Boost** - Patients in Ballarat will get the surgery they need sooner, with Australia's largest ever one-off investment to tackle elective surgery waiting lists in the 2016-17 Victorian Budget. The \$335 million boost will mean nearly 200,000 Victorians will get the surgery they need sooner this year.

10 April 2016 - **Wangaratta Patients To Get Their Surgery Sooner With Australia's Largest Ever Elective Surgery Boost** - Patients in Wangaratta will get the surgery they need sooner, with Australia's largest ever one-off investment to tackle elective surgery waiting lists in the 2016-17 Victorian Budget. The \$335 million boost will mean nearly 200,000 Victorians will get the surgery they need sooner this year.

10 April 2016 - **Patients In Geelong To Get Their Surgery Sooner With Australia's Largest Ever Elective Surgery Boost** - Patients in Geelong will get the surgery they need sooner, with Australia's largest ever one-off investment to tackle elective surgery waiting lists in the 2016-17 Victorian Budget. The \$335 million boost will mean nearly 200,000 Victorians will get the surgery they need sooner this year.

10 April 2016 - **Australia's Largest Ever Elective Surgery Boost For Patients** - Nearly 200,000 Victorians will get the surgery they need sooner this year, with Australia's largest ever one-off investment to tackle elective surgery waiting lists in the 2016-17 Victorian Budget. Minister for Health Jill Hennessy today joined Member for Ivanhoe Anthony Carbines and Member for Eltham Vicki Ward at Austin Health's Heidelberg Repatriation Hospital to announce a record boost for elective surgery.

10 April 2016 - **Planning For A Healthier Future In Footscray** - Footscray Hospital will receive a much needed renovation with funding for urgent works to fix key sections of the hospital and to undertake important planning work provided in the 2016-17 Victorian Budget.

9 April 2016 - **In the next couple of weeks we'll make history** - The first medicinal cannabis seeds will be planted in Victoria. The first product will be available early 2017. We're on track to deliver this life changing therapy to those who really need it.

8 April 2016 - **Community To Have A Say On Hospital Helicopter Flight Paths** - The Andrews Labor Government is engaging with local communities as it moves to protect the flight paths at thirteen rural and regional hospitals for helicopters transporting ill and injured Victorians for treatment.

7 April 2016 - **New Leaders Appointed To Ensure Food Safety Standards** - The Andrews Labor Government has appointed two new industry leaders to chair Victoria's dairy, meat and seafood safety regulatory bodies. Michael John Taylor AO has been appointed Chair of Dairy Food Safety Victoria, while

Candy Broad has been appointed chair of PrimeSafe – which regulates the red meat, poultry, seafood, game meat and pet food industries.

Western Australia. Department of Health

Media Releases

11 April 2016 - **Minister for Health and Minister for Regional Development: Innovative health program making a difference** - A bold and innovative program is transforming emergency care and access to GPs in Western Australia's southern inland, linking in with the State-wide emergency telehealth services which are now helping in the treatment of more than 1,400 patients per month.

8 April 2016 - **Mosquito borne virus warning for Kimberley now extended to Pilbara region** - The Department of Health is warning residents and travellers in the Pilbara region of Western Australia to take precautions to avoid mosquito bites following the detection of the mosquito-borne Kunjin virus.

New Zealand. Ministry of Health

14 April 2016 - **Review of Physical Activity Guidance and Resources for Under-Fives** - Developing information on physical activity for under-fives is one of the 22 initiatives in the Childhood Obesity Plan, and an important part of the broad population health approach for keeping New Zealand children healthy.

United Kingdom. Department of Health

8 April 2016 - **Forging global partnerships in genomics and personalised medicine** - The UK's expertise in genomics was showcased at a major international gathering to encourage global collaboration in this burgeoning field.

British Medical Association

7 April 2016 - **Tobacco legislation is 'step in right direction'** - BMA Northern Ireland has welcomed news that all tobacco retailers in Northern Ireland will need to be registered from this month. Health minister Simon Hamilton announced new legislation that means all businesses selling tobacco products in Northern Ireland must be registered under the Tobacco Retailers Act (Northern Ireland) 2014 from 6 April 2016.

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.

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