



HEALTH ALERT

18 July 2016

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JUDGMENTS

South Australia

13 July 2016 - [*Inquest into the death of Geoffrey Scott Noakes*](#)

Mr Noakes was a 43 year old with a longitudinal mental health history. He had been diagnosed with a major depressive illness and had indicated on numerous occasions in the years leading up to his death that he 'might not be averse to ending his own life as a means to escape his personal torment'. On 19 February 2016, he had attempted to cut his throat with a knife, and had also attempted to jump out of a moving vehicle. Mr Noakes was taken to his regular GP, Dr Baker, later that evening. Dr Baker organised for Mr Noakes to be transferred to a nearby hospital where he was detained under the *Mental Health Act 2009*. The following day, on 20 February 2016, the hospital discharged Mr Noakes. He committed suicide shortly after.

The Coroner described the hospital's examination of Mr Noakes as 'sub-optimal', and the decision to discharge as 'flawed'. The hospital allowed Mr Noakes to leave without first making due and proper enquiries of his treating GP and family members. The Coroner found that, had this occurred, Mr Noakes death may have been prevented. Numerous recommendations were made in relation to examining and discharging patients who present with suicidal ideations.

Tasmania

13 July 2016 - [*S v Mental Health Tribunal \[2016\] TASSC 34*](#)

The appellant was the subject of a treatment order made pursuant to Tasmanian mental health legislation on 21 October 2015. On 14 April 2016, an application for the renewal of that treatment order was dismissed by the Mental Health Tribunal (the Tribunal) because the required papers had not been given to the applicant as required by the Act. Subsequently, the appellant's treating psychiatrist, Dr Paech, made an application for a new treatment order. That application was granted by the Tribunal on 28 April 2016. This is an appeal from the decision to make that order.

The Act states that a treatment order should only be made if 'the person has been assessed by the applicant and one other approved medical practitioner, separately, within the preceding 7 days'. It was not in dispute that Dr Paech had assessed the appellant during a conversation on 14 April 2016. The issue was whether the Tribunal erred in finding that the handwritten notes made by another doctor who overheard this conversation constituted a second, separate assessment under the Act. The notes of this 'other medical professional' stated that 'she lacks capacity ... and should be under treatment order'.

The Court found that the Tribunal did not err in law in concluding that both doctors had 'assessed' the appellant, and done so 'separately', as required by the Act. The appeal was dismissed.

New South Wales

14 July 2016 - [*Goh v Medical Council of New South Wales \[2016\] NSWCATOD 92*](#)

Administrative Law- Civil and Administrative Tribunal Act 2013- application for re-instatement to Medical Register of practitioner-whether applicant fit and proper person to be re-instated-costs.

13 July 2016 - [*Health Care Complaints Commission v Hollamby \[2016\] NSWCATOD 91*](#)

Enrolled Nurse, Impairment, Competence, Surrender of Registration.

12 July 2016 - [*Health Care Complaints Commission v Sheehan \[2016\] NSWCATOD*](#)

PSYCHOLOGIST - Where practitioner admits unsatisfactory professional conduct - whether professional misconduct – whether conduct warrants cancellation of the practitioner's registration. Consideration of an appropriate period before the practitioner can apply for re-instatement – appropriateness of prohibition orders.

12 July 2016 - [*Wang v Dental Council of NSW \[2016\] NSWCATOD 90*](#)

Stay - relevant principles – no question of principle.

11 July 2016 - [Quinn Chi On v Karen Gore \[2016\] NSWSC 950](#)

OPTIONS – where option to purchase share in partnership is validly exercised – whether performance frustrated – whether plaintiff acted inconsistently with his obligations under the Option Agreement to transfer the share in the partnership to the defendant – whether repudiation – whether defendant accepted repudiation – whether parties abandoned Option Agreement.

8 July 2016 - [Khan v Medical Council of NSW \[2016\] NSWCATOD 88](#)

INTERLOCUTORY JUDGMENT - medical practitioner - breach of patient boundaries - appeal against suspension of registration made out of time - application to extend time -discretionary matters - application refused.

Queensland

[Inquest into the death of James Patrick Talbot](#)

Findings into the death of James Patrick Talbot.

LEGISLATION

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

Tasmania

11 July 2016 - [Pharmacy Control Amendment Act](#) - assent.

REPORTS

Australia. Commonwealth Ombudsman

[Report on Coronial Recommendations](#) - The Commonwealth Ombudsman published a report about responses to coronial recommendations by the Civil Aviation Safety Authority (CASA) in April 2015.

The Ombudsman has now prepared a guide outlining suggested administrative principles for responding to coronial recommendations for relevant agencies. This guide expands the lessons learned from the own motion investigation into CASA to government more broadly.

It aims to assist agencies participating in a coronial process to be responsive to recommendations made by a coroner in order to improve agency work.

Australian Competition and Consumer Commission (ACCC)

11 July 2016 - [Unilever and Smith's pay penalties for misleading healthy food representations](#) - Unilever Australia Limited and The Smith's Snackfood Company Pty Ltd have each paid a penalty of \$10,800 following the issue of infringement notices by the ACCC for misleading healthy food representations. The ACCC had reasonable grounds to believe both companies made false or misleading representation on the packaging of popular products they supply that the products had been approved or were suitable as healthy options for school canteens.

Australia. Department of Health

Media releases

13 July 2016 - [Retirement of Chief Medical Officer](#) - The Secretary of the federal Department of Health, Martin Bowles, has announced that Professor Chris Baggoley will retire as Australia's Chief Medical Officer (CMO) on July 15.

Private Health insurance Circulars

13 July 2016 - [PHI 53/16 - Declaration of Private Same-Day Hospital Information - revised with correct provider number](#)

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

14 July 2016 - **Tribunal reprimands nurse and places conditions on her registration** - A tribunal has reprimanded a nurse and placed conditions on her registration after finding she engaged in professional misconduct.

13 July 2016 - **Tribunal reprimands, fines obstetrician for professional misconduct** - A specialist obstetrician has been reprimanded, fined \$5,000 and ordered to pay the Board's costs for professional misconduct and unsatisfactory professional performance.

13 July 2016 - **Public consultation paper released** - The Psychology Board of Australia has published Consultation paper 27: Proposed guideline for transitional programs for overseas trained psychologists.

12 July 2016 - **Communiqué from the Board** - The Psychology Board of Australia has released the June 2016 communiqué.

12 July 2016 - **Call for applications** - Call for applications for appointment to the Dental Board of Australia's list of approved members for equivalence assessment panels

11 July 2016 - **Medical practitioner's registration suspended for inappropriate prescribing** - A medical practitioner who admitted inappropriate prescribing has had her registration suspended by a tribunal for professional misconduct.

11 July 2016 - **Unregistered nurse convicted and fined by court** - A New South Wales man has been fined \$10,000 and received a criminal conviction after knowingly and recklessly holding out as a registered nurse.

Australian Digital Health Agency

7 July 2016 - **APNA delegates on the benefits of My Health Record system** - The Agency recently spoke to a number of delegates at the Australian Primary Nurses Australia (APNA) Conference 2016 about the benefits of the My Health Record system.

Australia. National Health & Medical Research Council (NHMRC)

13 July 2016 - **Research Excellence Awards celebrate Australia's strength in health and medical research** - The outstanding achievements of 17 of Australia's most talented health and medical researchers will be celebrated at the NHMRC annual *Research Excellence Awards* in Canberra tonight. Now celebrating their tenth year, these awards recognise outstanding performance and excellence in health and medical research and innovation.

Australia. Therapeutic Goods Administration (TGA)

12 July 2016 - **Quickie Q7 manual wheelchair** - recall for product correction - risk of backrest bracket breaking.

12 July 2016 - **Black Storm tablets** - safety advisory.

8 July 2016 - **MRA GMP clearance application processing timelines** - June 2016 update.

Australian Institute of Health & Welfare (AIHW)

14 July 2016 - **Musculoskeletal conditions as underlying and associated causes of death 2013**

13 July 2016 - **Skin cancers common, but melanoma rates falling among younger people**

Australian Commission on Safety and Quality in Health Care

15 July 2016 - **Delirium Clinical Care Standard to improve care and prevention** - The Australian Commission on Safety and Quality in Health Care (the Commission) has released a Delirium Clinical Care Standard to support safe, high quality and appropriate care for patients with, or at risk of delirium.

On the Radar – 11 July 2016 – Issue 281 ([PDF 156KB](#)) ([Word 205KB](#))

Pharmaceutical Benefits Scheme (PBS)

8 July 2016 - **Drug Utilisation Sub Committee (DUSC) Utilisation Analysis Public Release Documents** - The Utilisation Analysis Public Release Documents from the February 2016 DUSC Meeting are now available.

1 July 2016 - **Pharmaceutical Benefits Advisory Committee (PBAC) Public Summary Documents - March 2016 meeting** - The Public Summary Documents (Positive Recommendations and Subsequent Decisions Not to Recommend) from the March 2016 PBAC meeting are now available.

1 July 2016 - **PBS Website Update - 1 July 2016** - The Schedule of Pharmaceutical Benefits was updated on 1 July 2016 and the Summary of Changes can be found on the New, Amended and Deleted Items page.

29 June 2016 - **Updated Price Disclosure Arrangements Procedural and Operational Guidelines** - Updated Price Disclosure Arrangements Procedural and Operational Guidelines are now available on the Price Disclosure (SPD) web page.

New South Wales. Ministry of Health

Media Releases

14 July 2016 - **Strengthening mental health care in Wagga Wagga** - Minister for Mental Health Pru Goward and Member for Wagga Wagga Daryl Maguire announced a number of key mental health initiatives in Wagga Wagga during a visit to Wagga Wagga Rural Referral Hospital today.

Information Bulletins

15 July 2016 - **Broken Hill Health Services Employees Increase in Rates of Pay and Allowances**

14 July 2016 - **Ambulance Service of NSW Administrative and Clerical Employees (State) Award Increased Rate of Pay**

13 July 2016 - **Your Experience of Service (YES) Questionnaire Translations**

New South Wales Health Care Complaints Commission (HCCC)

12 July 2016 - **David Sheehan – Registration cancelled and prohibition order** - The HCCC prosecuted a complaint against Mr David Sheehan, a registered psychologist, at a hearing before the NSW Civil and Administrative Tribunal. The HCCC alleged unsatisfactory professional conduct and professional misconduct in relation to Mr Sheehan's personal and sexual relationship with Ms X, the mother of a former patient and also his false and/or misleading statements to the Psychology Council of NSW and the HCCC in relation to the nature of the relationship with Ms X.

4 July 2016 - **Dr Sunil Dan – Unsatisfactory professional conduct - Reprimand and Conditions imposed** - The HCCC prosecuted a complaint of unsatisfactory professional conduct before Medical Professional Standards Committee against Dr Sunil Dan, a general practitioner practising in Moree. The complaint concerned the practitioner's care and treatment of a pregnant woman in 2012 when he inappropriately prescribed medication which should not be prescribed during pregnancy and failed to appropriately review and assess the patient and her medication during the pregnancy. The death of the patient's child, which occurred after its birth, was associated with prescribing the medication. Dr Dan admitted the complaint in full.

Northern Territory. Department of Health

11 July 2016 - **Gastro cases on the rise** - Territorians are reminded to be vigilant about hygiene following a rise in gastroenteritis cases across Darwin. Anthony Draper from the Centre for Disease Control said that there has been an increase in viral gastroenteritis or 'gastro' cases in recent weeks.

Queensland. Department of Health

15 July 2016 - **Suicide prevention training for hospital staff to save lives** - Life-saving suicide prevention training for frontline staff is underway in hospital and health services across Queensland as part of the Palaszczuk Government's commitment to improving capacity for the system to respond to suicide.

12 July 2016 - **More power to hospitals to help manage abusive patients** - Queensland Health will trial duress alarms and body cameras, and consider banning repeat violent visitors from some hospitals under new plans to tackle violence against health workers.

10 July 2016 - **Palaszczuk Government cements commitment to help 10,000 Queenslanders tackle chronic disease** - Today at the start of National Diabetes Week, the Palaszczuk Government has cemented its commitment to creating a healthier Queensland, announcing \$27 million over four years to help 10,000 Queenslanders tackle chronic disease

15 July 2016 - **Cunnamulla Hospital's long-serving hospital worker loves job and town** - For many workers, gaining both job and lifestyle satisfaction can be difficult, but long-serving Cunnamulla Hospital employee Catherin Barlow says she has both. Catherin clocked up 30 years working at the hospital at the end of June, including more than 20 years working in the laundry.

13 July 2016 - **NOJA powers to second gold recognition** - NOJA Power has again received the highest recognition for improving the health of employees through their outstanding workplace wellness program. The company was awarded gold recognition in the Healthier. Happier. Workplaces initiative for the second year running, by creating a work environment that improved the health and wellbeing of employees.

South Australia. Department for Health & Ageing

14 July 2016 - **Inaugural ride against suicide registrations open** - Chief Psychiatrist Dr Aaron Groves is today encouraging people to register for the Royal Adelaide Show *Ride Against Suicide* to raise awareness around suicide. SA Health is proud to be one of a number of organisations partnering the Ride in its inaugural year

12 July 2016 - **Cold weather warning** - South Australians are being reminded to keep a look out for elderly friends and relatives as severe winter weather lashes the state this week. SA Health Acting Chief Medical Officer Dr Nicola Spurrier said the biggest health risks to vulnerable people during very cold weather is hypothermia, pneumonia, the worsening of chronic disease and flu.

Tasmania. Department of Health & Human Services

14 July 2016 - **Government committed to fixing our health system** - I refute any suggestion by the Australian Medical Association that proposed changes to the structure of the state's health system is unworkable – it is the broken system with regional barriers that has let Tasmanians down for far too long.

13 July 2016 - **RHH redevelopment continues on track** - It is bitterly disappointing that Labor continues to throw rocks at the Royal Hobart Hospital redevelopment.

13 July 2016 - **New Statewide Sexual Health Services clinic opens in Launceston** - I am pleased to join the Statewide Sexual Health Services Director Dr Louise Owen in opening the new premises and the expanded service in Launceston today.

Victoria. Department of Health

15 July 2016 - **More Training Opportunities For Rural Physicians In The Latrobe Valley** - Latrobe Valley physicians will have the chance to strengthen their specialist skills thanks to a \$1.1 million training boost from the Andrews Labor Government.

15 July 2016 - **More Training Opportunities For Rural Physicians In Shepparton** - Shepparton physicians will have the chance to strengthen their specialist skills thanks to a \$1.1 million training boost from the Andrews Labor Government.

15 July 2016 - **More Training Opportunities For Rural Physicians In Ballarat** - Ballarat physicians will have the chance to strengthen their specialist skills thanks to a \$1.1 million training boost from the Andrews Labor Government.

15 July 2016 - **More Training Opportunities For Rural Physicians** - Rural physicians will have the chance to strengthen their specialist skills thanks to a \$1.1 million training boost from the Andrews Labor Government.

15 July 2016 - **Delivering Shade Protection For School Students** - Victorian school students learning and playing outdoors are about to get some much needed protection from harmful UV radiation with the installation of shade around their schools.

15 July 2016 - **Robust Growth, Longer Lifespans Predicted For Victoria** - The Andrews Labor Government has released projections showing upward trends in birth rates, life expectancy and migration for Victoria, as the state continues to thrive.

13 July 2016 - **Home Away From Home For Geelong Patients And Their Families** - Regional patients fighting blood cancer and their families will have access to a home away from home, with the Leukaemia Foundation's new Victorian Patient Accommodation Centre now open.

13 July 2016 - **Latrobe Valley Takes Major Bite Into New Industry** - Work has begun on the Latrobe Valley's new world-class dental laboratory and medical training facility, thanks to a \$1.9 million investment from the Andrews Labor Government. Minister for Regional Development, Jaala Pulford today inspected the early stages of construction at the Latrobe Valley University Training Clinic and Dental Prosthetics Laboratory site in Churchill.

13 July 2016 - **Home Away From Home For Cancer Patients And Their Families** - Patients and loved ones touched by blood cancer will benefit from a home away from home with the Leukaemia Foundation's new Victorian Patient Accommodation Centre now open.

13 July 2016 - **Vice President Of The United States To Visit Melbourne** - Acting Premier James Merlino has today warmly welcomed the announcement that Mr Joseph R Biden Jr, Vice President of the United States of America will visit Melbourne this month, as part of his visit to Australia.

12 July 2016 - **New Vision For World-Class Medical Research In Victoria** - The Andrews Labor Government today released a new \$20 million plan to ensure Victoria continues to be a world leader in ground breaking health and medical research that is changing lives.

8 July 2016 - **Better Care With New Bacchus Marsh Ambulance Station** - The Andrews Labor Government will build a new state-of-the-art home for Bacchus Marsh's growing ambulance service, giving paramedics the larger and modern facilities they need and deserve.

8 July 2016 - **New VicHealth Chair Appointed** - Minister for Health, Jill Hennessy, today announced the appointment of Fiona McCormack as the new Chair of the Victorian Health Promotion Foundation (VicHealth). Following a three month transition period, Ms McCormack will take up the position of VicHealth Chair in October, replacing Professor John Catford.

Western Australia. Department of Health

Media Releases

12 July 2016 - **Minister for Health: Extra care for Mid-West cancer and renal patients** - Mid-West cancer and renal patients are set to benefit from a state-of-the-art \$4.1 million Midwest Cancer Centre and \$1.2 million renal facilities, now under construction in Geraldton.

12 July 2016 - **Meningococcal disease in an adult** - The Department of Health today reported that an adult WA resident is currently making a good recovery after being hospitalised last week with meningococcal disease. The patient has since been discharged.

12 July 2016 - **Minister for Mental Health: New support for children bereaved by suicide** - Mental Health Minister Andrea Mitchell today announced Western Australia would establish the nation's first service to provide long-term support for children and young people bereaved by suicide.

11 July 2016 - **Minister for Health: Virtual emergency department now in Broome** - Broome Health Campus has become the 75th site to have access to the Emergency Telehealth Service (ETS), a Liberal National Government initiative which is significantly improving access to specialist medical support in rural and remote hospitals across Western Australia.

11 July 2016 - **Goldfields trip for facial project** - Goldfields schoolgirl Isabella Tucker made an important contribution to medical science when she fronted cameras for a special photo shoot in Kalgoorlie recently. The 11-year-old had a three-dimensional photograph of her face taken as part of a WA Health project that could one day revolutionise the way rare diseases are diagnosed.

9 July 2016 - **Minister for Health: Happy art a healthy boost for hospital healing** - An eye-catching artwork designed to foster fun, engagement and a healing environment has been unveiled at the new Perth Children's Hospital (PCH) during NAIDOC Week.

Publications

Western Australian Immunisation Strategy 2016–2020

New Zealand. Ministry of Health

13 July 2016 - **Health of Older People Strategy: Consultation draft** - This document sets out a draft strategy for the health and wellbeing of older people for the next 10 years. Its vision is that older people live well, age well, and have a respectful end of life in age-friendly communities.

United Kingdom. Department of Health

13 July 2016 - **Increased mental health services for those arrested** - An extra £12 million will be spent over the next 2 years to expand services that make mental health assessments available to those arrested. The funding will see a roll out of liaison and diversion services in police custody suites and criminal courts across England.

13 July 2016 - **Infected blood payment scheme reformed** - All infected individuals will now receive annual payment including extra £500 winter fuel payment without the need to apply for it.

Australian Medical Association (AuMA)

14 July 2016 - **AuMA calls for whole of Government approach** - AuMA President, Dr Michael Gannon called for a whole of government approach to preventive health after the nation's first health report card showed Australia lagged well behind other countries when it came to tackling chronic diseases such as diabetes, cancer, and cardiovascular disease.

14 July 2016 - **AuMA backs call to take children to GP, not ED** - AuMA Vice President Dr Tony Bartone has backed pleas from the Victorian Health Minister and the Royal Children's Hospital for parents to take children with minor ailments to their GP, not the emergency department. Dr Bartone told Melbourne radio 3AW GPs were well-placed to deal with such presentations during practice hours, but said he understood parents' concerns, particularly after hours.

14 July 2016 - **AuMA Family Doctor Week 2016 will soon be here** - AuMA Family Doctor Week highlights the role of GPs – our family doctors – and their value to the community and the health system as they deliver high-quality holistic health care. Family Doctor Week will run from Sunday 24 July to Saturday 30 July 2016.

14 July 2016 - **More money needed for GP research** - There needs to be more investment in general practice research, particularly clinical trials in a primary care setting, according to the authors of a Perspective article published online this week in the *Medical Journal of Australia*.

11 July 2016 - [AuMA congratulates Coalition on election victory](#) - The AuMA today congratulated Prime Minister Malcolm Turnbull and the Coalition on their election victory. AuMA President, Dr Michael Gannon, said that health policy was a key factor in the closeness of the election result, and the AuMA looked forward to working with the Government in its second term on health policies that best serve the needs of the Australian population.

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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