



HEALTH ALERT

26 September 2016

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JUDGMENTS

Commonwealth. Federal Court

15 September 2016 - *Luck v Secretary, Department of Human Services (No 5)* [2016] FCA 1123 - COSTS – ordinary course that costs follow the event – no special circumstances justifying departure from ordinary course

Queensland

10 September 2016 - *Inquest into the death of C* - C was a 14 year old girl with multiple physical and intellectual disabilities. Since January 2013, she had been in the care of the disability facility 'House with No Steps' (HWNS). On 27 June 2015, while on an outing with her carers and some other children, C was seen to choke on some food she had accessed without permission. Her carers called the ambulance and commenced resuscitation. C was transferred to the Lady Cilento Children's Hospital where she underwent multiple procedures. On 9 July 2015, a decision was made to cease active treatment. C died shortly after. A full autopsy concluded that the cause of death was hypoxic-ischaemic encephalopathy.

C's death was the subject of review by both the Department of Communities, Child Safety and Disability Services, as well as the Domestic and Family Violence Death Review Unit. The outcome of these reviews, as well as statements from both of the carers involved were provided to the Coroner. In addition to this information, the Coroner had regard to the Public Advocate's recent report 'Upholding the right to life and health: A review of the deaths in care of people with disability in Queensland'.

The Coroner was satisfied that the implementation of recommendations from the Public Advocate's report will improve the provision of care to children with complex disabilities across the service system. The Coroner was not critical of HWNS or any of the carers involved.

Victoria

22 September 2016 *Wooldridge v Department of Health & Human Services* [2016] VCAT 1599 - Where there is a change of Government following a State election, each incoming Minister is presented with a book of documents by the respective departments by way of a briefing. This is done because incoming governments do not have access to Cabinet papers of the previous government. In the case of an incoming Coalition Government, the briefing book is referred to as the 'Blue Book'. In the case of a Labor Government (as was the outcome of the last State election in Victoria), the briefing book is referred to as the 'Red Book'. Both books are prepared prior to the election.

The applicant, Ms Wooldridge, is a member of the coalition and the Shadow Minister for Mental Health. On 24 December 2014, Ms Wooldridge made a *Freedom of Information* request to the then Department of Health. She requested, among other things, 'all documents consisting of briefing material provided by the Department to incoming Ministers of the Andrews Government'. On 6 February 2015, the respondent in this proceeding, the newly formed Department of Health and Human Services, refused to grant access to the documents referred to in Ms Wooldridge's request. It did so on the basis that the documents can be characterised as 'Cabinet documents', that is they had been prepared for the purpose of submission for consideration by Cabinet.

Ms Wooldridge applied to the Tribunal for review of this decision. The Tribunal agreed with the Department's refusal to release the documents to Ms Wooldridge.

15 September 2016 - *Inquest into the death of Bernas Hasibuan*

New South Wales

16 September 2016 - *Health Care Complaints Commission v Dr CRF* [2016] NSWCATOD 120 - PROFESSIONAL DISCIPLINE – Where it is alleged under the Health Practitioner Regulation National Law practitioner is guilty of unsatisfactory professional conduct and professional misconduct, is impaired and is unfit to practise medicine. Where practitioner concedes the allegations in the complaint – Where practitioner concedes her registration should be cancelled and that she should pay the HCCC's costs. Where dispute as to whether any period should be imposed before practitioner can apply for a reinstatement order and whether or not non-publication order should be made.

LEGISLATION

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

Commonwealth

21 September 2016 - [National Health \(Immunisation Program – Designated Vaccines\) Variation Determination 2016 \(No. 2\)](#) - F2016L01468 as made.

20 September 2016 - [Private Health Insurance \(Complying Product\) Amendment Rules 2016 \(No. 5\)](#) - F2016L01464 as made.

20 September 2016 - [Private Health Insurance \(Benefit Requirements\) Amendment Rules 2016 \(No. 6\)](#) - F2016L01463 as made.

19 September 2016 - [Private Health Insurance \(Complaints Levy\) Rules 2016](#) - F2016L01450 as made.

New South Wales

22 September 2016 [Health Legislation Amendment Bill 2016](#) has now passed both houses

REPORTS

Australia. Commonwealth Ombudsman

12 September 2016 - [Commonwealth Ombudsman responds to Bupa announcement](#) - The Commonwealth and Private Health Insurance Ombudsman, Colin Neave AM, will be monitoring Bupa's response to the problems the private health insurer announced **today** with its assessment process for pre-existing medical conditions. Between 2011 and May 2016, some customer claims were rejected by claims assessors without being reviewed by a Bupa medical practitioner.

Australia. Department of Health

Consultations

16 September 2016 - [Consultation on the draft National Aged Care Advocacy Framework](#) - The Department of Health has undertaken a review of Commonwealth aged care advocacy services (the review) to identify how aged care consumers can be supported by individual advocacy to effectively access and interact with the aged care system. The outcomes of the review will inform the redesign of the National Aged Care Advocacy Program. Runs from 16 September 2016 to 7 October 2016.

Media releases

22 September 2016 - [David Tune to Lead Major Review of Aged Care Reforms](#) - Assistant Minister for Health and Aged Care, Ken Wyatt AM, MP announced the appointment of David Tune AO PSM to lead the Aged Care Legislated Review.

21 September 2016 - [Dementia diagnosed every 3 seconds worldwide](#) - Every 3 seconds one person worldwide is diagnosed with dementia – a group of conditions, which affects over 350,000 Australians and 46 million people worldwide.

20 September 2016 - [Funding boost means more students access increased training opportunities in Whyalla](#) - Health and medical students in Whyalla and a number of other locations throughout rural and regional areas of South Australia will receive greater opportunities to undertake their training, as a part of an Australian Government initiative.

19 September 2016 - [Opening of the 2016-17 Aged Care Approvals Round](#) - Existing and prospective aged care providers are encouraged to apply for allocations from the more than 10,000 national residential aged care places and 475 Short-Term Restorative Care places for 2016-17.

Private Health insurance Circulars

19 September 2016 - [PHI 73/16 Declaration Private Hospital Information](#)

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

23 September 2016 - **Tribunal suspends doctor for six months for professional misconduct** - The Queensland Civil and Administrative Tribunal (**QCAT**) has found Dr Tahir Shah engaged in professional misconduct and suspended his registration for six months.

22 September 2016 - **Tribunal highlights the importance of Dentists' adhering to professional responsibilities** - The Victorian Civil and Administrative Tribunal reprimanded Dr Ayu Abdullah and found she had engaged in professional misconduct and unprofessional conduct, after her treatment of a patient was found to be 'of an ongoing poor standard.

22 September 2016 - **Tribunal reprimands medical practitioner for unsatisfactory professional conduct** - QCAT has found that medical practitioner, Dr Sylvia Xiao Yun Yu, engaged in unsatisfactory professional conduct.

21 September 2016 - **Call for applications** - Call for applications for appointment to the Aboriginal and Torres Strait Islander Health Practice Accreditation Committee's list of approved accreditation assessors

21 September 2016 - **'Provider of care in the community' - National Board recognises special day for pharmacists** - The Pharmacy Board of Australia (the Board) has commended Australia's 29,600* pharmacists for their important contribution to the health and wellbeing of the Australian community as part of World Pharmacists Day.

20 September 2016 - **AHPRA and Medical Board host international conference** - Experienced medical regulators, academics and educators from around the world will gather in Melbourne from today at IAMRA2016 - the 12th conference of the International Association of Medical Regulatory Authorities.

22 September 2016 - **Communique from the NMBA** - The National Nursing and Midwifery Board (**NMBA**) has published its August communique.

19 September 2016 - **Tribunal reprimands nurse over child pornography** - A registered nurse who accessed child pornography has been reprimanded by a tribunal and had conditions placed on his registration.

19 September 2016 - **Tribunal suspends nurse over drug trafficking conviction** - A tribunal has suspended a nurse for five months and placed conditions on her registration after she pleaded guilty to drug trafficking and subsequently failed to notify the NMBA.

Australia. National Health & Medical Research Council (NHMRC)

20 September 2016 - **'NHMRC support for research translation'** - Presentation by Professor Anne Kelso AO, NHMRC's Chief Executive Officer on 'NHMRC support for research translation' to the First Australian Psychological Society Congress, Session 8G: *Research Translation: Implications for Psychological Scientists and Practitioners*, 16 September 2016, Melbourne.

Australia. Pharmaceutical Benefits Scheme (PBS)

20 September 2016 - **Biosimilar Awareness Initiative Reference Group Communiqué** - The communiqué from the **Reference Group Meeting** held 18 August 2016 is now available.

20 September 2016 - **Generic Medicines Working Group (GMWG) Communiqué** - The communiqué from the July 2016 meeting of the **GMWG** is now available.

Australia. Therapeutic Goods Administration (TGA)

20 September 2016 - **Rehab Assist C-Series ceiling hoists** - Recall for product correction - potential for attachment swivel to break.

19 September 2016 - **Prescription medicines: PPF only Pre-submission phase option** - The pre-submission pilot for prescription medicines will conclude at the end of September 2016.

16 September 2016 - **Updates to the list of designated orphan drugs** - Added Nitisinone (ORFADIN).

16 September 2016 - [Public submissions on scheduling matters referred to the ACMS#18, July 2016](#) - Public submissions made in response to the delegates' proposed amendments to the Poisons Standard and the delegates' interim decision.

16 September 2016 - [TGA statutory advisory committee and specialist advisor vacancies](#) - Added section on proposed statutory committees.

Australian Digital Health Agency

16 September 2016 - [Will you play a part in driving the digital transformation of Australian healthcare?](#) - Message from Jim Birch, Chair of the Australian Digital Health Agency: Will you play a part in driving the digital transformation of Australian healthcare? The Board of the Australian Digital Health Agency is calling for people to support it in driving the digital transformation of Australian healthcare.

16 September 2016 - [Dr John Aloizos discusses My Health Record system benefits](#) - Dr John Aloizos, Clinical Advisor to the Australian Digital Health Agency, discusses how the My Health Record and digital technologies are helping his team at Garden City Medical Centre develop clinical pathways for patients with chronic and complex illnesses, and provide comprehensive care and service for their patients.

12 September 2016 - [Detailed Clinical Model Library - Clinical Informatics](#) - The Clinical Informatics unit is pleased to announce the latest release of the Australian Digital Health Agency's Detailed Clinical Model Library (v4.4).

12 September 2016 - [Unleashing the power of people - How digital services can transform healthcare](#) - The Agency will shortly be launching an Agency blog. Here is our first post from the Agency CEO Mr Tim Kelsey.

Australian Commission on Safety and Quality in Health Care

On the Radar – 19 September 2016 – Issue 291 ([PDF 123KB](#)) ([Word 147KB](#))

Australian Competition and Consumer Commission (ACCC)

12 September 2016 - [Chemmart agrees to improve its promotion of 'myDNA' tests](#) - The Australian Competition and Consumer Commission has accepted an administrative undertaking on behalf of Chemmart in relation to representations regarding the effectiveness of a myDNA genetic test in identifying an individual's response to certain drugs. The ACCC was concerned that statements in Chemmart's catalogues, television infomercials, in-store brochures and other promotional materials about the myDNA test risked conveying a false or misleading impression regarding the usefulness of the genetic test, and the consumers for whom it may be appropriate.

New South Wales (NSW). Ministry of Health

Media Releases

19 September 2016 - [NSW Healthy Town Challenge winner announced](#) - The South Coast town of Eurobodalla is splashing out this Thursday, in celebration of its win in the 2016 NSW Healthy Town Challenge. It's encouraging as many people as possible to join an attempt to set a new Australian record for the biggest aqua aerobics class in an indoor pool. It's an active choice of celebration, but typifies the approach taken by Eurobodalla this year – to improve the health of its community. NSW Director of the Centre for Population Health, Dr Jo Mitchell, said the town's ability to get everyone involved was pivotal to Eurobodalla's win in the Healthy Town Challenge.

21 September 2016 - [Centrepiece of \\$277 million St George hospital redevelopment reaches highest point](#) - Health Minister Jillian Skinner was joined today by local MPs on top of St George Hospital's new Acute Services Building to celebrate construction reaching its highest point. In January, the NSW Government announced it would fast-track construction of the Acute Services Building, delivering it six months ahead of schedule with a \$30 million saving to taxpayers without any reduction in the scale of the project or the clinical services delivered.

20 September 2016 - [Western NSW chemotherapy report released](#) - The report into Dr John Grygiel's prescribing of chemotherapy to Western NSW cancer patients has confirmed underdosing in a small number of patients.

Publications

19 September 2016 - [NSW Childhood Overweight and Obesity Premier's Priority Annual Data Report 2016](#)

Policy Directives & Guidelines

22 September 2009 - [Pension Based Scale of Fees - Charging Arrangements and Scale of Fees](#)

Information Bulletins

22 September 2016 - [Variation to the Public Health System Nurses' and Midwives' \(State\) Award](#)

21 September 2016 - [Health Records and Medical/Clinical Reports - Rates](#)

20 September 2016 - [NSW Health Labour Agreement](#)

New South Wales Health Care Complaints Commission

20 September 2016 - [Dr Kwong Yiu \(Kelvin\) Lo – Professional misconduct – Registration cancelled Queensland. Department of Health](#)

23 September 2016 - [Administrator appointed to Cairns and Hinterland HHS](#) - Respected health professional, Terry Mehan, has been appointed Administrator for the Cairns and Hinterland Hospital and Health Service.

20 September 2016 - [Funding boost for heart transplant research](#) - A \$1.3 million funding boost will support research to improve the lives of Queenslanders with end stage heart and lung failure, and those needing a heart or lung transplant.

19 September 2016 - [Statement from the Minister regarding Cairns and Hinterland Hospital and Health Service Board](#) - Today I was contacted by Carolyn Eagle, Chair of the Cairns and Hinterland Hospital and Health Service Board, to advise of the resignation of the Board.

19 September 2016 - [United front protecting health workers across Queensland](#) - Minister for Health and Ambulance Services Cameron Dick has today announced strong action underway in hospitals across the state to better protect healthcare workers from violence.

19 September 2016 - [Minister asks Cairns and Hinterland HHS Board to show cause](#) - Minister for Health and Ambulance Services Cameron Dick has written to board members of the Cairns and Hinterland Hospital and Health Service asking them to give reasons why they should not be removed from their position.

22 September 2016 - [Hospital snags win in Carnival of Flowers gardening competition](#) - The Oakey Hospital has bagged a win in its first year of entering the Toowoomba Carnival of Flowers competition. The hospital and residential aged-care facility took first place in the 'Country Nursing Home' section of the competition.

22 September 2016 - [Lyn retires after five decades on the frontline](#) - After 52 years as a nurse, Lyn Cramb has completed her final shift as a Child Health Nurse at 13HEALTH.

South Australia (SA). Department for Health & Ageing

21 September 2016 - [Media release: Two more new measles cases](#) - South Australians are being reminded to check their vaccination status for measles after another two cases of the disease were confirmed today. SA Health's Chief Medical Officer Professor Paddy Phillips has said that unlike the recent cases that were contracted in South East Asia, a 22 year old female and a nine month old boy are in a stable condition in hospital after contracting the disease through the community

20 September 2016 - [Hundreds of extra car parks to future-proof Flinders Medical Centre](#) - The State Government has paved the way for demand at Flinders Medical Centre, with 540 extra car spaces to be added to the hospital's new multi-level carpark.

Tasmania. Department of Health & Human Services

22 September 2016 - [Report on Ambulance Tasmania welcomed](#) - The Hodgman Liberal Government is committed to ensuring all Tasmanians have access to high quality ambulance services. We've significantly invested in our ambulance service, with around 20 more paramedics on the road today compared to when we came to Government.

22 September 2016 - [Health reforms helping to address long elective surgery wait list](#) - The Hodgman Liberal Government's additional \$76 million to help Tasmanians get their elective surgery sooner is paying off. Our elective surgery plan is working and delivering real benefits for Tasmanians.

Victoria. Department of Health

22 September 2016 - [More support for refugee health and wellbeing in Victoria](#) - Refugees and people currently seeking asylum will get the health and mental health support they need to re-settle in Victoria, with an \$11 million funding boost from the Andrews Labor Government. Minister for Health, Jill Hennessy, today joined Minister for Mental Health, Martin Foley, at the Multicultural Hub to announce the funding in response to growing Syrian and Iraqi refugee settlement in Victoria.

22 September 2016 - [Victoria joins forces for world-leading health care](#) - Medical researchers from Victoria will partner with Nanjing University in a bid to accelerate more accessible medical preventions and treatments for patients across Australia, China and the world. Premier Daniel Andrews announced the new partnership agreement with Nanjing University during his opening address at the Primary Healthcare Symposium in Nanjing. Attended by global leading health professionals and policy leaders, the symposium is a direct outcome of the Health Collaboration Agreement signed between Victoria and Jiangsu during the Premier's visit in 2015.

21 September 2016 - [Ice action grants support local communities](#) - Twelve Victorian community groups will receive Community Ice Action Grants with almost \$118,000 in funding announced today. Minister for Mental Health Martin Foley made the second round of the grants at the Shepparton Black Eagles Basketball Club, which will use the funding to mentor young Aboriginal people in the area.

21 September 2016 - [First Successful Prosecution Of Illegal Tanning Operators](#) - The Department of Health and Human Services has successfully prosecuted the operators of an illegal tanning salon run firstly from a business premises and then from a private home in Bundoora. This is the first prosecution since the Victorian ban on commercial tanning commenced in 2015.

16 September 2016 - [Better drug and alcohol support in the Otways](#) - The Andrews Labor Government is investing in a pioneering project using telehealth to make it easier to access drug and alcohol recovery services for people living in the Southern Otways region. Minister for Health, Jill Hennessy, today announced the first 15 projects receiving funding from the new \$10 million Better Care Victoria Innovation Fund.

16 September 2016 - [Faster, better care for remote Gippsland patients](#) - The Andrews Labor Government is investing in a pioneering project that uses telehealth to make it easier for patients living in Gippsland to attend an outpatient appointment at home or at their local GP.

16 September 2016 - [Better, faster care for critically ill Mildura patients](#) - The Andrews Labor Government is investing in a pioneering project that uses telehealth to provide higher quality care for critically ill patients at hospitals in Mildura, Robinvale and Ouyen. Minister for Health, Jill Hennessy, today announced the first 15 projects receiving funding from the new \$10 million Better Care Victoria Innovation Fund.

Western Australia (WA). Department of Health

Media Releases

21 September 2016 - [Minister for Health: Ear health care promises healthier Pilbara future](#) - A unique collaboration between the WA Country Health Service, Telethon Speech and Hearing and Chevron is set to improve ear health and hearing across the Pilbara.

20 September 2016 - **Improving health focus in local councils** - The South Metropolitan Health Service Population Health Service has released a series of new community health and wellbeing profiles to guide local governments in creating healthy living environments.

19 September 2016 - **Minister for Health: Extended 24-hour stroke service key to recovery** - Specialised stroke management will be available 24 hours a day seven days a week in Perth, with the Liberal National Government expanding the potentially life-saving service.

New Zealand. Ministry of Health

19 September 2016 - **The Management of Asbestos in the Non-Occupational Environment** - These guidelines are directed at non-workplace exposure to asbestos in the air and to help public health units of district health boards address public concerns and give sensible advice

United Kingdom (UK). Department of Health

21 September 2016 - **UK secures historic UN Declaration on antimicrobial resistance** - The agreement follows a worldwide campaign led by the Chief Medical Officer Professor Dame Sally Davies and Health Secretary Jeremy Hunt to highlight the threat posed to modern medicine by antimicrobial resistance. Every signatory has agreed that drug resistant infections must be tackled as a priority. The nations have committed to: develop surveillance and regulatory systems on the use and sales of antimicrobial medicines for humans and animals, encourage innovative ways to develop new antibiotics, and improve rapid diagnostics and raise awareness among health professionals and the public on how to prevent drug resistant infections

21 September 2016 - **Dementia nursing: vision and strategy** - This strategy sets out how nurses can provide high quality compassionate care and support for people with dementia, so they can live well with dementia within all care settings, including a person's own home.

Australian Medical Association (AuMA)

23 September 2016 - **Antivax film dumped following outcry** - A controversial film that claims US health authorities are covering up evidence linking a vaccine to autism has been withdrawn from screening at a central Victorian film festival. The Castlemaine Local and International Film Festival has decided to dump the controversial show *Vaxxed: From Cover-Up to Catastrophe* following widespread calls, including from AuMA President Dr Michael Gannon, for it to be scrapped from the festival's line-up.

22 September 2016 - **National terms and conditions for the employment of GP Registrars** - The AuMA is pleased to advise that General Practice Registrars Australia and General Practice Supervisors Australia have reached agreement on the National Terms and Conditions for the Employment of Registrars commencing in 2017 - three months earlier than the previous agreement, and just in time for registrars and practices to negotiate their employment arrangements for 2017.

22 September 2016 - **The election is over, but the pressure on GPs is getting worse** - It is more than two months since the Federal election, but there has been no change to the health policies that are placing enormous pressure on GPs and increasing health care costs for patients. United General Practice Australia, comprising leading general practice groups including the AuMA, warned this week that quality patient care is under growing threat because of the Government's ongoing freeze on Medicare patient rebates.

22 September 2016 - **WMA Medical Ethics Day** - The World Medical Association's annual Medical Ethics Day is a way for the global medical community to recognise and promote the important role of ethics in medicine. To help inform GPs on a range of ethical issues, the AuMA has a Code of Ethics and a number of Position Statements and Guidelines available.

22 September 2016 - **AuMA defends GPs over asthma drugs claim** - The AuMA's Chair of General Practice, Dr Richard Kidd, has defended GPs against claims they are failing to specifically warn parents of possible psychiatric side effects of the asthma drug Singulair.

22 September 2016 - **AuMA Submission: RACGP's Draft 5th Edition Standards for General Practice** - The AuMA has provided a submission to the Royal Australian College of General Practitioners on its Second Draft of the Standards for General Practices, 5th edition. The 5th edition Standards are due to be

released in October 2017. The AuMA provided a submission on the first draft of the Standards earlier this year, and, for the most part, the comments and suggestions made in that submission were incorporated into the second draft.

22 September 2016 - **Three deaths a day from prescription drugs: Australian Medicine** - *Australian Medicine* this week reports that health bodies have called on the Government to establish a mandatory, national, real-time prescription monitoring system, as new figures show nearly three Australians die every day from prescription drugs.

22 September 2016 - **Australian Immunisation Register** From 30 September the Australian Childhood Immunisation Register will become the Australian Immunisation Register, a national register that records vaccinations given to people of all ages in Australia. This is welcome progress towards a Whole of Life Register, which the AuMA has long advocated for.

22 September 2016 - **Putting your AuMA Family Doctor Logo into practice** - AuMA GP members are encouraged to download and use the 2016 AuMA Family Doctor logo. The logo is provided as part of the AuMA's ongoing efforts to promote the role of general practice and will enable AuMA GPs to identify and promote themselves as a Family Doctor.

ABOUT US

Michael Regos



Michael is the head of the DLA Piper health litigation group.

He practises in the areas of health law, insurance law, medical negligence and coronial enquiries. He represents Victorian public hospitals and their insurers, the Victorian Managed Insurance Authority and is the solicitor of choice for Australia's second-largest private health operator.

Michael regularly presents to medical groups and hospitals on medico-legal issues.

Contact Details

T +61 3 9274 5437

michael.regos@dlapiper.com

MORE INFORMATION

Contact your nearest DLA Piper office:

BRISBANE

Level 9, 480 Queen Street
Brisbane QLD 4000
T +61 7 3246 4000
F +61 7 3229 4077
brisbane@dlapiper.com

CANBERRA

Level 3, 55 Wentworth Avenue
Kingston ACT 2604
T +61 2 6201 8787
F +61 2 6230 7848
canberra@dlapiper.com

MELBOURNE

Level 21, 140 William Street
Melbourne VIC 3000
T +61 3 9274 5000
F +61 3 9274 5111
melbourne@dlapiper.com

PERTH

Level 31, Central Park
152–158 St Georges Terrace
Perth WA 6000
T +61 8 6467 6000
F +61 8 6467 6001
perth@dlapiper.com

SYDNEY

Level 22, No.1 Martin Place
Sydney NSW 2000
T +61 2 9286 8000
F +61 2 9286 8007
sydney@dlapiper.com

www.dlapiper.com

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