BUDDLE FINDLAY

Legal update on health law - December 2012

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Decision to stop funding day services for over 65s was unjustified discrimination

In 2005, due to fiscal pressures, the Ministry of Health decided to stop funding day services for people with intellectual disabilities who were over 65. Idea Services successfully challenged this decision at the Human Rights Review Tribunal, with the Tribunal finding that the decision to stop funding was unjustified discrimination on the grounds of age. The Tribunal's decision was appealed to the High Court. The High Court dismissed the appeal. It agreed with the Tribunal's finding that the decision to stop funding was discriminatory on the basis of age, and that the discrimination was not justified. In particular, the High Court noted that there were *"reasonable alternatives available to the [Ministry] which were non-discriminatory"*, and that the Ministry's decision was a *"blanket prohibition"* that was not a "proportionate response at the time it was made, in the absence of consideration of other alternatives". However, in contrast to the Tribunal's finding, the High Court concluded that the decision to stop funding did not breach the funding contract between the Ministry and Idea Services, *as "[t]he principles set out in the contract...do not bear upon whether the [Ministry] is contractually obliged to fund the day services...[t]hey are about IDEA Services' responsibilities, not the [Ministry's] commitment to funding"*. The Ministry also succeeded in an appeal against the costs that had been awarded by the Tribunal. *Attorney General v Idea Services (in Stat Man)* [2012] NZHC 3229

Nurse successfully appeals against maximum period of suspension

A nurse, who was found guilty of professional misconduct for engaging in an inappropriate relationship with a patient, has had his period of suspension reduced from three years to 18 months.

In allowing the appeal, the High Court noted that imposing a penalty involves issues of finely balanced judgment and it would not intervene unless it was satisfied that the Tribunal's decision was "plainly wrong". The Court found that the Tribunal had not adequately explained its reasons for imposing the maximum period of suspension allowable under the Health Practitioners Competence Assurance Act, and that its failure constituted an error in law and principle. Having examined the various factors, including the vulnerability of the patient at the time the relationship commenced, the nature and extent of the professional relationship, the fact that the relationship which developed appeared to be genuine and loving, and other comparable cases, the Court concluded that suspension for 18 months was the appropriate penalty. The cross-appeal by the Professional Conduct Committee (which sought cancellation of the nurse's registration) was dismissed. *Roberts v Professional Conduct Committee* [2012] NZHC 3354

No personal grievance for suspension and dismissal from an Aged Residential Care Facility

A Facility Manager of an Aged Residential Care Facility who, among other things, threatened to tie a resident to a chair if she did not remain seated and called out "dinner time, jellimeat for tea", has had her claim for unjustified disadvantage and unjustified dismissal claim dismissed by the Employment Relations Authority.

Following a spot audit, a DHB (who has a service agreement with the Facility) identified concerns about both the Facility's compliance with its service agreement and the Facility Manager, and decided to appoint a Temporary Manager. The Facility Manager was on leave when the audit took place, and was suspended on her return to work. The Authority agreed that the discussion with the Facility Manager did not amount to consultation, as a decision to suspend had already been made. However, the Authority noted that: "Justifiable suspension as an action is not ordinarily regarded as disciplinary in nature, as its proper purpose is to allow for the time and space, and in some cases security within the workplace, needed before the employee is given the opportunity to respond to allegations of misconduct or poor performance". The Authority concluded that, in the unusual circumstances of this case (which included the Facility's obligations under its agreement with the DHB and the "urgent and pressing" need to maintain the confidence of its residents and staff), suspension was "somewhat inevitable" and consultation was

not required. The claim for unjustified dismissal was also dismissed, with the Authority concluding that the inquiry concluded by the facility was fair and reasonable, and that dismissal was an action that a fair and reasonable employer could have decided upon in all the circumstances. *Gazeley v Oceania Group (NZ) Ltd* [2012] NZERA Christchurch 261

Nurse's dismissal for convictions justified notwithstanding process failures

A nurse set fire to her car in an attempt to take her life, and was charged with two counts of arson. She applied for a position at an Aged Residential Care Facility, advised that she was awaiting the hearing of the charges and agreed to undergo a police clearance, and was offered and accepted a registered nurse position working three night shifts a week.

A few months later she entered a guilty plea and was convicted. She was subsequently sentenced to eight months' home detention. It quickly became apparent that the manager who hired her had not advised the Facility of the nurse's circumstances, and the nurse was dismissed on the basis that she had been convicted of a serious criminal offence which could harm the Facility's reputation (in breach of clause 8.35 of the Facility's Code of Conduct). The Authority found that although the nurse had properly disclosed her circumstances, this did not prevent the Facility from relying on clause 8.35 when the nurse was subsequently convicted, and that: "Objectively assessed I find that having an employee convicted of arson in sole charge of some 40 elderly residents at night could reflect or impact negatively on [the Facility] in those circumstances". However, it was found that there was unfairness in the disciplinary process as the nurse was not made aware of the serious allegation of misconduct that she was required to answer: "The allegations were somewhat of a moveable feast". Notwithstanding that, the Authority found that the dismissal was justified "in spite of the process failures". *X v Oceania Group (NZ) Ltd* [2012] NZERA Christchurch 264

Caregiver's dismissal for contacting the media after assault by a resident justifiable

A caregiver of four intellectually disabled adults living in shared accommodation was assaulted by one of the residents. The caregiver filed an incident report and then contacted the media (in breach of her employer's media policy) as she did not believe that her employer would act on her incident report.

The Employment Relations Authority found that the caregiver's dismissal for serious misconduct was justifiable because her involvement of the media seriously undermined her employer's trust and confidence in her, and she had improperly exposed the residents to the media without their informed consent and in breach of their privacy. The Authority also dismissed the caregiver's claim that her employer did not adequately follow its incident reporting system. However, the Authority accepted that the employer had failed in its obligation to provide a safe workplace, as it had been aware of the resident's physical behaviour as a potential hazard and it had not properly briefed the caregiver, nor provided training on how to support the resident. The Authority took the view that a fair and reasonable employer could be expected to have implemented new strategies and remedial action to keep staff and other residents safe from that particular resident's physical outbursts. The Authority awarded $1,000 compensation to the caregiver for this unjustifiable disadvantage. *Ritchie v Idea Services Ltd (Auckland)*[2012] NZERA Auckland 337

Court of Appeal refuses to order disclosure of rape complainant's medical records

A man appealing his conviction for sexual offending applied for extensive disclosure of one of the complainant's medical records. The complainant had a history of mental health treatment and there were apparent inconsistencies in her statements to the police. The complainant's treating psychiatrist advised the Court that the complainant was very unwell and that "*disclosing the notes would, in my professional opinion, be potentially devastating for [the complainant]...*".

The Court noted that in the context of an appeal against conviction, it had to be "*satisfied that disclosure is necessary to advance an appeal ground that can itself be seen to have a solid foundation.*" The Court concluded that there was "*not enough*" to justify disclosure in this case and declined to order disclosure of the records. *Kumar v R* [2012] NZCA 434

Unsuccessful injunction application in after hours funding dispute

A DHB stopped paying a rural after hours funding bonus to a group of primary health care providers after determining that the providers were not eligible for the bonus. In response, the providers stopped after hours services and instead used an automated phone line referring after hours patients to the DHB. The DHB (and the PHO equivalent) considered that the providers were no longer meeting their obligation to provide after hours access to primary health care services under the Primary Health Services Contracts and made deductions to the providers' payments in reliance on the set off provisions. The providers contended that the phone line was sufficient and sought an injunction to stop the deductions from their payments.

Having analysed the contracts, the Court concluded that the automated phone line was "*not, by itself, providing "access" to primary health care after hours*" and commented that: "*it cannot be right that the plaintiffs can simply cease after hours services and at the same time expect to receive the full...payments*". However, the Court questioned the payment deductions and found that there was a "*seriously arguable case that the use of the set off provisions in this case is inappropriate or disproportionate...*". As an aside, the Court also noted that there may be an ability for the providers to reduce after hours services if there were "*demonstrably insufficient funds to carry out those services*". The Court declined to grant the injunction. [2012] NZHC 2764

Nurse's appeal to revoke suspension of her registration fails

The District Court has upheld a decision of the Nursing Council Health Committee not to revoke a suspension of a nurse's registration. The nurse had her registration suspended in 2003 because of mental illness, and psychiatric evidence indicated that the nurse continued to suffer from mental illness and a personality disorder.

At appeal, the Court emphasised that the Nursing Council must not be guided by sympathy or revoke a suspension because the nurse "*deserved a chance*". Instead, "*the issue must be fitness to practice as a nurse **now** and patient health and safety*". Overall, the Court found that the nurse had not provided sufficient evidence (either to the Nursing Council or to the Court) that she was fit to practise. *Rein v Professional Conduct Committee* (DC WN CIV-2011-085-771, 11 May 2012).

Husband discharged without conviction in relation to assisting wife's suicide

In a case that has attracted significant media attention, Mr Evans Mott has been discharged without conviction for his role in his wife's suicide. His wife, who suffered an aggressive form of multiple sclerosis, made a decision to end her life and obtained the equipment that she needed. Mott helped to assemble the equipment, and left the house when she asked him to.

Mott pled guilty to assisting suicide, and sought a discharge without conviction. The Judge noted that although Mott and his wife "*believed that the course she took should not be unlawful and that is a view shared by a large number of people in our community*", the law, as it presently stands, recognises the sanctity of life. However, the Judge found that Mott's assistance was "*limited*"; he took no part in the events on the day his wife died, and his wife would have followed through her decision to commit suicide with or without his involvement. The Judge also took into account the significant consequences for Mott if he was convicted, particularly in relation to his employment. The Judge concluded that there were a number of strong mitigating factors in the "*very particular circumstances*" of this case, and discharged Mott without conviction. *R v Mott* [2012] NZHC 2366 (13 September 2012)

Director of Proceedings fails in appeal against HPDT decision and penalty

Both the Director of Proceedings and a general practitioner have had their appeals against a decision of the Health Practitioners Disciplinary Tribunal dismissed.

The Director of Proceedings had brought disciplinary proceedings against the general practitioner after an investigation by the Health and Disability Commissioner found a number of deficiencies in his care of a patient, including a failure to follow up pathology adequately. The Tribunal found the practitioner guilty of professional misconduct, censured him and placed conditions on his return to practise. However, the Director of Proceedings appealed a number of the Tribunal's factual findings, and sought an increase in penalty. The general practitioner also cross appealed against the conditions the Tribunal had imposed on his return to practise.

The High Court dismissed both appeals, noting that it was reluctant to interfere with the Tribunal's factual findings as the Tribunal had the advantage of hearing the evidence first hand, and was able to apply its medical expertise when making factual determinations. The Court also found that the Tribunal had taken the correct approach to penalty. *The Director of Proceedings v Vatsyayann* [2012] NZHC 2588

Misunderstanding of the legal meaning of "dispensing" no defence to practising without an APC

A pharmacist had his application for a new annual practising certificate (APC) declined for failing to comply with the Pharmacy Council's CPD requirements. However, while he knew that he was not able to practise pharmacy, and provided an undertaking to this effect to the Council, he continued to be involved in dispensing and compounding on the mistaken belief that he was not "dispensing" in the legal sense as he was not taking "*charge*"of the prescription and another registered pharmacist was supervising his work.

The Health Practitioners Disciplinary Tribunal found the pharmacist guilty of practising without an APC, as there was "*uncontradicted evidence that [the pharmacist] was dispensing in terms of the definition in the Medicines Act*", and an inaccurate appreciation of what "dispensing" means under the law was no defence. A second charge of knowingly misleading the Pharmacy Council was dismissed, as the Tribunal was not satisfied that this allegation of serious dishonestly had been established. The pharmacist was fined $2,000 and ordered to pay costs of $8,275 to the Tribunal and $12,250 to the Pharmacy Council. *Mr Colin Henderson* Phar12/210P

Dental technician who practised outside his scope of practice has registration cancelled

The Health Practitioners Disciplinary Tribunal has cancelled the registration of a dental technician who provided and advertised services that were outside the dental technology scope of practice (including taking impressions and manufacturing dentures without a prescription) and who also practised dental technology without a current annual practising certificate.

Among other things, the Tribunal found that: the practitioner was purporting to carry out the activities of a clinical dental technician when he knew from various interactions with the Dental Council that he was not registered as such and was not permitted to perform these activities; that inserting a removable oral device was a restricted activity and was, by definition, one of the riskiest health services provided by health practitioners; and that there was an element of dishonesty in the practitioner's conduct. The Tribunal also accepted that the practitioner's refusal to engage with the Professional Conduct Committee or the Tribunal was an aggravating factor. It concluded that his "*practice was so inept that issues cannot be dealt with either by way of the imposition of conditions... or even suspension plus conditions*" and that cancellation was the "*only possible order which the Tribunal can make in these circumstances*". The Tribunal also censured the practitioner and awarded costs of $38,000, noting that "*the issue of enforceability of a costs order is for the Dental Council*". *Daniel Sutherland* 481/Dtech11/199P

Nurse's registration cancelled for dishonest and deceitful conduct

A nurse had her registration suspended in 2011 after she was found guilty of professional misconduct for forging a prescription. The nurse did not tell her employer of the suspension and continued to practise, only resigning when the employer realised about the suspension from media reporting. The nurse then applied and was appointed as a school nurse. During this process the nurse provided a false reference and falsified her annual practising certificate in her application to become an ACC registered health provider.

Matters were eventually brought to the attention of the Nursing Council, who established a Professional Conduct Committee which subsequently brought disciplinary charges before the Health Practitioners Disciplinary Tribunal. The nurse was found guilty of professional misconduct, with the Tribunal noting that "*honesty is a vitally important part of being a registered health professiona*l". As the nurse "*has had an opportunity to rehabilitate herself [after the earlier suspension] and... has chosen not to*", the Tribunal found that the only appropriate penalty was censure and cancellation of registration. *Rosylin Singh* 475/Nur12/212P

Cancellation of GP's registration confirmed after rehearing

Following the High Court's decision in *Vatsyayann v PCC* [2012] NZHC 1138, the Health Practitioners Disciplinary Tribunal has reheard and reconsidered the penalty to be imposed on a general practitioner who was found guilty of professional misconduct.

In contrast to the earlier penalty hearing where the practitioner did not appear, the practitioner provided full written and oral submissions and submitted that all issues raised by the disciplinary charges where "*amenable to cure*", and that with "*the benefit of two years of reflection... he was now ready to resume medical practice subject to supervision and conditions*". However, after "*very careful evaluation of all the material*" the Tribunal concluded that the practitioner's submissions had not ameliorated the severity of the conduct. The Tribunal found, among other things, that many of his explanations were not credible, that his acknowledgment of many breaches was perfunctory, and that he had a lack of insight (which was also demonstrated by previous reviews and disciplinary findings). Ultimately, the Tribunal concluded that it was not satisfied that the practitioner was "*amenable to cure*" and that "*[c]ancellation of registration is inevitable in those circumstances*". *Dr Vatsyayann* 479/Med10/152P

Update on United Kingdom euthanasia case

Tony Nicklinson, the man who (alongside fellow locked in syndrome sufferer Martin) recently challenged the United Kingdom's law on assisted suicide, passed away shortly after the Court released its decision declining to change the law. Both Mr Nicklinson's wife and Martin applied for leave to appeal the decision to the Court of Appeal.

Martin was granted permission to appeal, with the Court stating that while it did not consider that Martin's appeal "*had any real prospect of success*" the key issue in Martin's case (relating to the Director of Public Prosecution's policy on prosecutions for assisted suicide) was of sufficient significance to merit consideration by the Court of Appeal. However, Mrs Nicklinson was not granted permission to appeal as the Court considered that the matter was "*plainly a matter for Parliament*", and the Court did not need to consider whether the appeal should be allowed "*as a matter of compassion*" as Mr Nicklinson was no longer alive.

Natural health practitioner referred to Director of Proceedings for failing to "cry halt"

A natural health practitioner has been found guilty of multiple breaches of the Code for her care of a patient with cancer. The patient presented with a lesion on her head that became progressively worse over the 18 months during which she received treatment from the practitioner. While the practitioner accepted that the treatment was "*way out of her league*" she said that the woman did not want conventional treatment and that "*the patient's wishes should always come first*".

Among other things, the Deputy Commissioner found that the practitioner had failed to properly inform the patient that the lesion was worsening and had continued to treat even when matters were clearly beyond her. The Deputy Commissioner concluded that the practitioner should have discontinued treatment, despite the patient's wishes: "*[e]ven if a provider has a strong belief in the efficacy of alternative treatments, if the treatments prove unsuccessful, there must come a point at which a provider must "cry halt"*". Further, the fundamental principle of health care, first do no harm, "*is no less applicable to alternative practitioners than to medical practitioners*". The practitioner's lack of record keeping and the relationship of dependency that had developed between practitioner and the patient was also criticised.

The practitioner was referred to the Director of Proceedings and Human Rights Review Tribunal proceedings are pending. 10HDC00970

Nurse referred to Director of Proceedings for administering incorrect medication and failing to report her error

During a patient's hospital admission, a registered nurse noticed that the medications listed on a patient's medication sheet did not match the medications logged in the Pyxis medicines administration system. The nurse overrode the system and administered the medications. A short time later the nurse realised she had clipped the wrong medication sheet into the patient's file and had therefore administered medications intended for another. The nurse did not report the error but did check a pharmacy reference text and decided that the patient was not in danger. The patient's condition deteriorated and he died two hours later.

The nurse reported her error two days later. The patient's body had to be uplifted for a post-mortem and the pathologist concluded that the medication was contraindicated. The Commissioner found the nurse in breach of the Code for failing to take steps to ensure the correct medication was administered, failing to appreciate the significance of the patient's deterioration, and for the "severe" failure to report the error and mitigate the danger to the patient. While the DHB's various policies, procedures and training systems were reviewed as part of the investigation, the Commissioner found that "*the breaches in this case were caused by individual error*". The nurse was referred to the Director of Proceedings. 10HDC01201

Documentation, communication and coordination failures in community mental health service

The Commissioner has found both a psychiatrist and a DHB in breach of the Code for various documentation, communication, and service coordination failures in the care of a community mental health patient who committed suicide.

The psychiatrist who attended the patient shortly before his suicide was found in breach of the Code for failing to adequately document his assessment and the patient's crisis plan before the psychiatrist left to go on leave. The Commissioner noted that his handwritten notes were "*insufficiently clear to be meaningful*" and criticised the psychiatrist for not communicating the crisis plan to the patient's general practitioner, the urgent community team, or to the patient's partner. The DHB was also found in breach of the Code for failing to ensure adequate communication and coordination between the various limbs of the mental health service. For example, the DHB had not ensured there were clear processes for assigning case managers and had failed to ensure good communication between the service and the patient's partner, or between the psychiatrist and the urgent community team. The Commissioner also made adverse comment about the registered psychiatric nurse involved, noting that while there was some confusion about whether the nurse was the formal case manager, the nurse should have "*taken the initiative*" to ensure the patient had appropriate support. 10HDC00805

Consent process may require advice as to who will perform surgery

The Commissioner has reviewed the care provided to a young man who died following brain surgery. The Commissioner identified a number of systems issues which compromised the ability of staff to provide appropriate care, and also suggested that patients ought to be told who will perform their surgery as part of the consent process.

The Commissioner found that there were a number of organisational issues that impacted adversely on the quality of postoperative care and which "*conspired to create an unsafe situation in which appropriate monitoring did not take place*". In particular, the Commissioner identified a conflict between ward protocols and the consultant's instructions; failures to record the patient's respiratory rate (which were compounded by the Neurosurgery observation chart not having a specific place for such recordings); and a number of ward practices that impacted on patient care (e.g. the location of handover, and "specialling" ending on the completion of the night shift rather than at medical handover).

Although no breach finding was made in relation to the consent process, the Commissioner commented that in many circumstances a reasonable patient would expect to be told the identity of the person performing the surgery, in order to give proper informed consent. In this case, the consultant and registrar were involved in the consent process but the patient was not told that the registrar would perform the surgery. 09HDC01565

"Tunnel vision" approach to care and communication failures between services

A patient with a history of cancer was admitted to the DHB's Medical Service with back pain. While the Medical Service was aware that the woman was with the Oncology Service, it did not discuss the woman's admission with Oncology. After several months of pain management the woman had a bone scan which indicated metastatic bone disease in her back.

In responding to the Commissioner's investigation, the DHB noted that the Oncology Service had full access to the woman's medical records, and that the Medical Service could expect the issue of metastasis to be considered by others. However, the Commissioner did not accept "*that it was reasonable to assume that the possibility of cancer would be picked up by the Oncology Clinic without directly informing that clinic about [the woman's] admission*". The Commissioner also found that given the patient's history and her presentation on admission, an MRI scan or bone scan should have been done to exclude the possibility of metastatic bone disease.

The Commissioner concluded that "*this was a case of different services....each considering a patient from their own specialist viewpoint without having regard to the bigger picture*". The DHB was found in breach of Right 4(1) of the Code for the Medical Service's failure to adequately investigate the cause of the back pain, and in breach of Right 4(5) for the failure of the Medical Service to communicate adequately with the Oncology Service. 10HDC00703

Substandard care, poor judgement and inadequate documentation result in breach findings

A rest home and two registered nurses have been found in breach of the Code, following an investigation into the care provided to a 93 year old man. Prior to discharge from hospital, the man had been assessed as requiring hospital level care. However, the facility placed him into a rest home room on the basis that a hospital bed would become available within a few days of his admission.

Among other things, the Deputy Commissioner found that the admitting nurse exercised poor skill and judgment in admitting the man without making adequate arrangements to ensure he received the level of care he required; that the nurse should have contacted the hospital to discuss the facility's inability to immediately meet the man's needs as assessed; and that there was no record of communication with the man, despite him being competent. The Deputy Commissioner also found that documentation was inadequate (important information was not recorded, and imprecise wording provided insufficient guidance for carers; for example, the word "*assist*" was used in relation to self cares without any further explanation), and that concerns raised by family members were not fully documented or acted upon.

While the Deputy Commissioner accepted that the facility was short staffed and that there was a lack of support for senior staff, this did not excuse the nurses' failures. Such lack of support did, however, contribute to a breach finding against the facility, with the Deputy Commissioner commenting that: "*failures by multiple staff to adhere to policies and procedures suggests an environment and culture that do not sufficiently support and assist staff to do what is required of them.*" 10HDC00308

Commerce Commission to focus on health sector

The Commerce Commission has announced that it will work to increase understanding of, and compliance with, competition and consumer laws among health professionals over the next two years. As part of this project, the Commission will develop guidance for professionals in the health sector. The Commission is currently surveying health professionals to assess knowledge of competition and consumer laws, with the results to be used to inform the Commission's education efforts.

Further information is available here.

Updated guidelines on the Mental Health (Compulsory Assessment and Treatment) Act

The Ministry of Health has published an updated guidance on the Mental Health (Compulsory Assessment and Treatment) Act, as well as updated guidance for employees of mental health services appointed as Directors of Area Mental Health Services and as Duly Authorised Officers.

White Paper on Vulnerable Children released

The Ministry of Social Development has released the White Paper on Vulnerable Children. Among other things, the White Paper proposes a one-stop "child protect" hotline, a coordinated Vulnerable Kids Information System, training for frontline members of the child workforce, and new multidisciplinary regional "Children's Teams". A framework and timelines for the various proposals is set out in the "Children's Action Plan", which accompanied the Paper.

Auditor-General releases follow up report on standard of rest home services

In 2009, the Auditor-General published a report on the effectiveness of arrangements to check the standard of services provided by rest homes. A follow-up report was released in September 2012. This report indicates that the consistency and quality of rest home audits have improved. However, the Auditor-General notes that there is still scope for certification and auditing to provide better assurance about the quality of care provided in rest homes, and suggests that the Ministry of Health needs to do more to further strengthen auditor's competence, particularly so that audits better address the quality of care that patients actually receive. The report notes that the Ministry needs to "*keep shifting the focus of rest home audits towards ensuring that documented policies and procedures result in safe quality care being delivered to residents*".

Further information is available here.

Pharmac and HBL to manage purchasing of hospital medical devices

Pharmac will extend its management of medicines to include hospital medical devices over the next few years. DHBs currently buy about 250,000 types and brands of medical devices and spent around $880 million on such devices last year. Pharmac will work closely with Health Benefits Limited in implementing the new arrangement (Health Minister Tony Ryall, media release, 7/9/2012).

Consultation on payments to family carers of disabled adults

Following the Court of Appeal decision in *Ministry of Health v Atkinson and others,* the Ministry of Health has decided to change its current policy of not paying family carers who provide support to their disabled adult family members. The Ministry has recently consulted on options for paying family carers, with submissions closing on 6 November 2012.

Further information is available here.

Expert panel makes recommendations on pathology laboratory errors

Earlier this year, the Ministry of Health became aware of five serious errors in reporting of pathology results for breast tissue and oral tissue over a two year period. Of those five errors, four resulted from transposition of specimens with those of other patients during the lab process, and one resulted from misinterpretation of the specimen. The Ministry convened a panel of experts to provide advice regarding the errors. The Panel has now released its report. While the Panel considers that overall quality processes in New Zealand laboratories are of a high standard, vulnerability to error remains. The Panel has made a number of

recommendations to minimise such risk to error, and has also suggested improved reporting of serious and sentinel events; improved collaboration between laboratories on quality initiatives; and improved and nationally consistent processes for supporting patients affected by serious errors.

The Report is available here.

Specialist Alcohol and Drug Treatment Court pilot begins in Auckland

A five year pilot of a specialist Alcohol and Other Drug Treatment (AODT) Court has begun in Auckland. The aim of the AODT Court is to better deal with offenders who have underlying addiction issues that may be fueling offending. Under the pilot scheme, selected defendants will be given the opportunity to participate in an intensive addiction treatment programme. This programme involves targeted multidisciplinary interventions where health professionals will work with the Judge responsible for sentencing the offender. The offender's participation and the success of the programme will then be taken into account in sentencing.

Further information is available here.

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