



WHEN RELIGIOUS VIEWS ARE ALLOWED TO INTERFERE WITH PATIENT HEALTHCARE:

CASE STUDIES FROM DISCIPLINARY DECISIONS AGAINST HEALTH
PRACTITIONERS

October 2019

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WHY THESE CASES MATTER...

The relationship between a health practitioner and their patient is a special one.

It is a relationship of trust, where statements and opinions expressed by health practitioners have profound impacts on their patients and are often accepted by patients without question. Patients trust that their health practitioner will treat their disclosures confidentially and put their needs first when giving advice or providing treatment.

This report identifies cases where health practitioners have breached that relationship of trust by allowing their religious views to interfere with patient healthcare.

These complaints represent only the tip of the iceberg, being some of the more serious breaches. This is because very few patients who experience poor treatment make complaints and even fewer complaints make their way to a published decision by a tribunal or health board.

These cases matter because the exposure draft of the Religious Discrimination Bill 2019 will make it easier for personal religious views to interfere in patient healthcare.

The Bill makes it harder for employers and professional bodies to impose rules which require health practitioners to treat all patients despite their personal religious objections.¹ These provisions do not only apply to life-and-death procedures such as abortion or euthanasia (which are largely dealt with in separate provisions). They apply to any health service delivered by a wide range of health practitioners, including doctors, dentists, nurses, pharmacists, optometrists, occupational therapists, psychologists, podiatrists and physiotherapists.

The Bill also removes protections from patients who are currently protected by federal, state and territory anti-discrimination laws on the grounds of their disability, sex, pregnancy, marital status, sexual orientation or gender identity. A health practitioner will be permitted to express polite and well-meaning, yet harmful, religious views in a consultation setting, with their discriminatory provision of health services immunised when challenged under other anti-discrimination laws.²

Unless we get the balance right, religious discrimination protections will lead to more of these kinds of cases.

CONTENT WARNING: This document includes content regarding sexual abuse, suicide, conversion practices, eating disorders, stillbirth, and the poor and discriminatory treatment of people by health professionals. If this content triggers something for you, you can contact **Lifeline** on 13 11 14 (24 hours / 7 days) or **QLife**, LGBTI peer support and referral, on 1800 184 527 (3pm-midnight, 7 days).

¹ Religious Discrimination Bill 2019, s 8(5)-(6). Section 8(5) prevents health employers and professional bodies from imposing additional requirements to state and territory laws on conscientious objection. So for example, if a state law allows conscientious objection in abortion but does not require the practitioner to refer the patient to another treating practitioner, an employer or professional body cannot impose a policy requirement that requires their employee to make that referral contrary to their religious views. Section 8(6) prevents health employers and professional bodies from restricting or preventing health practitioners from objecting on religious grounds to providing health services to any patient. Health employers and professional bodies will only be able to restrict or prevent conscientious objection by a health professional if it causes an unjustified adverse impact on the service or the health of the patient.

² Religious Discrimination Bill 2019, s 41. Section 41 overrides protections under all federal, state and territory anti-discrimination laws to protect certain 'statements of belief' from constituting discrimination on grounds such as disability, sex, sexual orientation or gender identity. Statements of belief which are malicious, or are likely to harass, vilify, or incite hatred or violence, or encourage or urge serious offences, are not protected.

THE CASES

YEAR	STATE / TERRITORY	HEALTH PROFESSIONAL	THE FACTS	POTENTIAL IMPACT OF THE RELIGIOUS DISCRIMINATION BILL
2016	ACT	Doctor	<p>On 3 June 2016, a panel formed by the Australian Health Practitioner Regulation Agency reprimanded a doctor for, among other things, expressing personal religious beliefs to a patient.</p> <p>The details of the conduct are not published.</p> <p>See Panel Decision 2016.0744 on the AHPRA website.</p>	Not clear, given the details of the case are not published.
2015	NSW	Psychiatrist	<p>Dr Sarah, a devout Catholic and psychiatrist based in Western Sydney, made religious comments and gestures to 5 women including:</p> <ul style="list-style-type: none"> • Telling a patient with ADHD that she had to pray, and that <i>“lesbians don’t know that they are doing something wrong so we still have to love them... it’s the same with paedophiles...”</i> • Telling a sexual abuse survivor, who had depression and had just been discharged from an alcohol detoxification program, <i>“Don’t cry, Jesus drank, and you don’t need any medication”</i> and that <i>“if she didn’t go to church and show Jesus that she loved him, she would end up in hell with her former [abuser]”</i>; • Telling a Muslim woman with bipolar disorder that she was <i>“beautiful and bright, and that there is nothing wrong with her”</i>; as he prayed over her and drew the sign of a cross with holy water; • Telling a woman with PTSD who was having suicidal thoughts that <i>“she ask for God’s forgiveness for her son’s death”</i>; given the “abortion” of her stillborn child, whose birth was induced at 22 weeks due to a heart condition; • Telling a woman diagnosed with depression and anxiety, who expressed fear about illness and death, that she <i>“should be looking forward to the Kingdom of Heaven”</i>. 	<p>If the Religious Discrimination Bill were in effect at the time:</p> <ul style="list-style-type: none"> • Dr Sarah’s could have challenged his deregistration as religious discrimination. • Dr Sarah’s patients could have their discrimination protections (based on disability, sex, sexual orientation or pregnancy) taken away in favour of Dr Sarah’s ‘statements of belief’.

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			<p>Dr Sarah was deregistered following disciplinary action taken by the Health Care Complaints Commission.</p> <p>See Health Care Complaints Commission v Sarah [2015] NSWCATOD 99.</p>	
2012	NSW	GP and radiologist	<p>Dr Craddock, a member of the Exclusive Brethren, consulted an 18-year-old male patient from his church in his home. The young man was seeking a ‘cure’ for his homosexuality. A church leader had informed the young man that “<i>there’s medication you can go on for these things</i>” and recommended he speak to Dr Craddock to “help” him with his “problem”.</p> <p>Dr Craddock prescribed Cyrpostat, a medication that reduces testosterone and can be used to treat advanced prostate cancer or manage sexual deviation. It was not clinically indicated for use in relation to a young and healthy male patient, and could result in impotence. Dr Craddock failed to refer his patient to a counsellor or psychologist.</p> <p>The Professional Standards Committee found Dr Craddock engaged in unsatisfactory professional conduct. His licence to practice was restricted mainly to radiology. The Professional Standards Committee accepted that Dr Craddock’s religious views provided context and background to the complaint, without suggesting that Dr Craddock made medical decisions on the basis of his religious views.</p> <p>See Re Craddock [2012] NSWMPSC 8.</p>	If the Religious Discrimination Bill were in effect at the time, an employer or health professional body that sought to require health practitioners to refer gay patients to a counsellor or psychologist with affirming views towards homosexuality could face challenge.
2010	NSW	Psychologist	<p>Dr Tynan, a Catholic psychologist from a charismatic Christian tradition, treated two young women he diagnosed with dissociative identity disorder (DID). These women were members of the ‘Servants of Jesus’ Community, who each suffered from mental illness to such a degree that, at various times, each was scheduled in mental health facilities.</p>	If the Religious Discrimination Bill were in effect at the time, Dr Tynan could have challenged his deregistration as religious discrimination.

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			<p>As part of his practice, Dr Tynan relied on materials published by River of Life Ministries which the Tribunal refused to recount in full “<i>due to its disturbing nature</i>”, describing the content as “<i>sinister, bizarre, sadistic and without scientific basis or psychological merit</i>”. His therapy sessions with his two clients includes repeated discussion of Satanic abuse and supernatural events, and included prayers seeking deliverance from Satan and demons. The manner in which Dr Tynan used prayers conveyed the impression (even if unintended) that the client was at fault and needed God’s guidance to help them see otherwise.</p> <p>The NSW Psychologists Tribunal deregistered Dr Tynan. It found his conduct “unethical and improper”. It found he utilised inappropriate and/or ineffective treatment methods by inviting his clients to pray, particularly in circumstances when they were vulnerable and open to suggestion.</p> <p>See Health Care Complaints Commission v Tynan [2010] NSWPS1.</p>	
2007	Vic	Dentist	<p>Dr Gardner had appointments with Mr and Mrs AB for routine dental work. During her appointment, Mrs AB stated that she suffered from schizophrenia and took medication for her condition.</p> <p>Dr Gardner proceeded to identify himself as a strong practising Christian. He suggested that an antecedent or background cause of Mrs AB’s schizophrenia was an “<i>oppression by sprits of fear</i>”, or something similar. Dr Gardener advised Mrs AB that spiritual healing may result in her no longer requiring medication. Dr Gardner cited his dental assistant, who was also present, as an example of someone who had been cured of a mental illness by spiritual healing. Dr Gardner admitted that he had made his patients uncomfortable. Mr AB subsequently cancelled his appointment.</p>	<p>If the Religious Discrimination Bill were in effect at the time:</p> <ul style="list-style-type: none"> • Dr Gardner’s ‘statements of belief’ would be privileged over Mrs AB’s disability discrimination protections, potentially immunising them in any discrimination complaint. • Health employers and professional bodies that

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			<p>In this response to the Board, Mr Gardner stated that his practice successfully dealt with the “spirit of fear that oppresses so many patients (2 Timothy 1:7)” and that his patients leave “feeling different and knowing that they have been touched by Jesus Christ”.</p> <p>The Dental Practice Board of Australia found Dr Gardner engaged in unprofessional conduct of a serious nature and ordered him to undergo counselling concerning the relationship between his religious beliefs and his dental practice.</p> <p>See Dr Paul Gardner [2007] DPBV 1.</p>	sought to curtail health professionals from expressing religious views to their patients could be subject to a claim of religious discrimination.
2005	NSW	Doctor	<p>Dr Kwan saw patients who were drug addicted or drug dependant and who were receiving methadone from another doctor.</p> <p>Dr Kwan provided religious instruction and advice to patients during or in conjunction with professional consultations. Other than prescribing medication, Dr Kwan used treatment regimes with his patients which included counselling, meditation, physical exercises and sharing the “Born Again Life” in which he prayed with the patient and referred patients to particular chapters of the Bible in which he introduced them to “Biblical Meditation”. Dr Kwan said he would only prescribe benzodiazepines to patients who took up other facets of his treatment regime.</p> <p>The NSW Medical Tribunal found Dr Kwan had engaged in professional misconduct and imposed conditions on his licence to practice, including restrictions on his powers to prescribe medication.</p> <p>See Health Care Complaints Commission v Dr Edmund Ching Kun Kwan [2005] NSWMT 23.</p>	<p>If the Religious Discrimination Bill were in effect at the time:</p> <ul style="list-style-type: none"> • Dr Kwan could have challenged his deregistration as discrimination based on religious belief. • Dr Kwan’s ‘statements of belief’ would be privileged over his patients’ disability discrimination protections, potentially immunising them in any discrimination complaint.

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2005	SA	Psychologist	<p>A patient, diagnosed by his GP with depression and anxiety, consulted with a psychologist (identity redacted).</p> <p>The psychologist raised the issue of religion with the patient throughout his treatment, including selling or loaning religious books to him. The patient travelled to Melbourne to hear the author of one religious book speak; an event which the psychologist also attended. As the patient's interest in religious matters deepened through consultations with the psychologist, he became increasingly "obsessed" with religion, talked of "devil possession" and distributed religious material to family and friends. Throughout this period the patient became more aggressive and agitated and reported to the psychologist that he was "talking to saints". Instead of referring the patient for further psychiatric assessment, the psychologist sent the patient to a priest. The patient ultimately committed suicide.</p> <p>The SA Psychological Board found the psychologist guilty of all counts of gross professional negligence and misconduct.</p> <p>See Case 7[2005] SAPSB1.</p>	<p>If the Religious Discrimination Bill were in effect at the time, health employers and professional bodies that sought to curtail health professionals from expressing religious views to a vulnerable patient (especially in contexts outside of work hours), could be subject to a claim of religious discrimination.</p>
2003	Vic	Probationary psychologist	<p>Mr Hunt, a probationary psychologist, consulted with Ms Y in relation to her eating disorder. Prior to consulting Mr Hunt, Ms Y's weight dropped to a life-threatening 23kg, before a dramatic weight gain which resulted in severe depression and suicidality.</p> <p>During regular sessions, Mr Hunt would pray over Ms Y on the basis that he believed that her anorexia had come from her being possessed by demons. He would tell her to turn herself over to God and exhorted her to see her parents as letting Satan into their family home. As a born again Christian who called himself a "warrior from God", Mr Hunt told Ms Y his purpose on earth was to heal people with God.</p>	<p>While Mr Hunt's sexual misconduct would not be protected by the Religious Discrimination Bill, his preceding 'statements of belief' could be protected. Health employers and professional bodies which prohibit health professionals</p>

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			<p>Mr Hunt eventually entered into a sexual relationship with Ms Y. In evidence, Ms Y said that, looking back, she felt Hunt had brainwashed her.</p> <p>The Victorian Psychologists Registration Board cancelled Mr Hunt's registration. It said he unacceptably permitted his religious beliefs to intrude into his provision of psychological services, <i>"in a way that was proselytising, confusing and oppressive"</i>.</p> <p>See Re Deon Hunt [2003] PRBD (Vic) 7.</p>	<p>from discussing their religious beliefs with patients could be the subject of religious discrimination claims.</p>