

VICTORIAN GOVERNMENT
SOLICITOR'S OFFICE

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10 November 2011

Mr Malcolm Hooper
HyperMED
643 Chapel Street
South Yarra 3141

By email: info@hypermed.com.au

Dear Mr Hooper

Chiropractic Board of Australia v Malcolm Hooper (VCAT Ref: B112/2010)

We refer to the above matter and to the hearing before the Victorian Civil and Administrative Tribunal (VCAT) listed on **Monday 14 November 2011 at 9.30 am**.

Please find enclosed, by way of service, the Applicant's written submissions and the Affidavit of Elsie Yee Ming Loh.

We expect to provide you with a folder of authorities by close of business Friday 11 November 2011.

Please be advised that the Applicant will be raising with VCAT the 'make a donation' link which appeared at the bottom of your email to Ms Loh on 9 November 2011.

Please contact Elsie Loh on 9032 3036 or Marissa Chorn on 9032 3001 if you have any questions or concerns.

Yours faithfully
Victorian Government Solicitor's Office


Katie Miller
Principal Solicitor

OCCUPATIONAL AND BUSINESS REGULATION LIST

B E T W E E N

CHIROPRACTIC BOARD OF AUSTRALIA

Applicant

-and-

MALCOLM HOOPER

Respondent

**APPLICANT'S SUBMISSIONS AS TO DR HOOPER'S
APPLICATION TO CHANGE HIS POSITION**

Relevant history

1. The Respondent has signaled that he wishes to renege on proposed findings and determinations lodged with the Tribunal, asserting he has been under financial duress and, for a second time, dispensing with his counsel.
2. The proposed findings and determinations have been the subject of extensive discussion and negotiation, first with a senior junior member of counsel, Mr James Kewley, whom the Applicant sacked a period of time after a proposed resolution had been arrived at and about which the Tribunal was informed by Mr Kewley.¹
3. In due course, Mr Kewley was replaced by Mr Malcolm Titshall QC, one of the most senior silks at the Victorian Bar, and his junior, Mr Ben Murphy.
4. After extensive discussions and negotiations through his counsel, proposed agreed findings and determinations were entered before Ross J on 13 October 2011.
5. Then a hearing took place before the three member panel on 24 October 2011. No issue of dissatisfaction or equivocation was expressed by counsel for the Respondent, although the hearing took some time. The Respondent was present at the hearing and was available to provide instructions to counsel appearing for him.

Legal principles

6. The majority of the authority on the issue of change of "plea" is from the criminal domain. In most respects, it is applicable to the disciplinary context.
7. The appellate decisions indicate that the burden of persuasion rests upon the accused who seeks to change "a plea" to establish the legitimacy of his or her doing so², the

¹ Transcript, at pp68-70. as exhibited at Exhibit EYL2-2 of the Affidavit of Elsie Yee Ming Loh, filed on 20 May 2011.

² *R v Webb & Hay* (1992) 64 A Crim R 38; see also *Tihanyi v The Queen* [1999] WASCA 226; *The State of Western Australia v Landers* [2000] WASCA 125 at [30].

yardstick being whether a refusal of such a change of plea at any time prior to sentencing would be likely to constitute a miscarriage of justice.

8. In *Meissner v The Queen*³ Brennan, Toohey and McHugh JJ stated:

A court will act on a plea of guilty when it is entered in open court by a person who is of full age and apparently of sound mind and understanding, provided the plea is entered in exercise of a free choice in the interests of the person entering the plea. There is no miscarriage of justice if a court does act on such a plea, even if the person entering it is not in truth guilty of the offence.

9. In the same case Dawson J stated⁴

It is true that a person may plead guilty upon grounds which extend beyond that person's belief in his guilt. He may do so for all manner of reasons: for example, to avoid worry, inconvenience or expense; to avoid publicity; to protect his family or friends; or in the hope of obtaining a more lenient sentence than he would if convicted after a plea of not guilty. The entry of a plea of guilty upon grounds such as these nevertheless constitutes an admission of all the elements of the offence and a conviction entered upon the basis of such a plea will not be set aside on appeal unless it can be shown that a miscarriage of justice has occurred. Ordinarily that will only be where the accused did not understand the nature of the charge or did not intend to admit he was guilty of it or if upon the facts admitted by the plea he could not in law have been guilty of the offence. But the accused may show that a miscarriage of justice occurred in other ways and so be allowed to withdraw his plea of guilty and have his conviction set aside. For example, he may show that his plea was induced by intimidation of one kind or another, or by an improper inducement or by fraud.

10. A formulation in respect of the risk of a miscarriage of justice which has frequently been referred to with approval is that of Sholl J in *R v Murphy*⁵

for some other reason which enabled one to say that her plea was not really attributable to a genuine consciousness of guilt ...

11. The significance of this factor was identified also in *R v Cincotta*⁶ in which Hunt CJ at CL (with whom Grove and Allen JJ agreed), said:

A person who has pleaded guilty will be permitted to withdraw that plea where it has been shown that a miscarriage of justice has occurred. The applicant for such permission bears the onus of showing the existence of that miscarriage. It will be shown to exist where, for example, the plea was induced by threats or other impropriety when the applicant would not otherwise have pleaded guilty. There must be shown to be some circumstance which indicates that the plea of guilty was not really attributable to a genuine consciousness of guilt.

³ (1995) 184 CLR 132 at 141.

⁴ At 157.

⁵ [1975] VR 187 at 191. To similar effect are the observations of Lee J (with whom McInerney and Campbell JJ agreed) in *R v Sagiv* (1986) 22 A Crim R 73 at 80, who applied a test of 'mistake or other circumstances affecting the integrity of the plea as an admission of guilt ...' See also *Norvenska v DPP* (Cth) [2007] NSWCCA 158 [21] - [27]; *R v Stevie Mambor* [2010] ACTSC 30.

⁶ Unreported, New South Wales, Court of Criminal Appeal, 1 November 1995, at p1.

12. In *Chow v DPP*⁷, Kirby P stated:

The entitlement of a person who has pleaded guilty to withdraw such a plea before conviction (and even on appeal) at any time before final sentence is pronounced is not in doubt. ... It is within the discretion of the presiding judicial officer to decide whether a plea of guilty may be withdrawn. That discretion must be exercised judicially. If the plea has been entered as a result of a mistake or 'other circumstances affecting the integrity of the plea as an admission of guilt', courts will readily grant leave to withdraw the plea.

13. In *R v Pinhasovitch*⁸ (a decision of Phillips CJ, Crockett and O'Bryan JJ sitting as the Victorian Court of Criminal Appeal), an application to set aside a conviction on appeal on the basis that the plea of guilty was the result of the duress of counsel, was the subject of consideration. The Court stated:

The applicant carries the burden of persuading the Court that he has suffered a miscarriage of justice. The burden of doing so on the ground that he has entered a plea of guilty under the influence of duress exercised by his counsel is a particularly heavy one. And this is what the applicant has in essence asserted with regard to his senior counsel.⁹

14. The Court ultimately held that the plea of guilty had been entered as a result of a free choice on the applicant's part.

15. In dealing with the second ground, namely that the facts could not support a conviction, the Court observed:

Insofar as the making out of this ground would establish a relevant miscarriage of justice, the onus of showing that the admitted facts would not support a conviction of the applicant rests upon him. As we have said, consistently with authority, it is a heavy onus.¹⁰

16. Similarly, in *R v Douglass*¹¹ Coldrey J emphasized that:

the applicant freely chose to plead guilty to murder, conscious of his own guilt and having been fully appraised by counsel on the legal and factual matters involved and having been in receipt of expert legal advice, properly tendered, as to the overwhelming nature of the prosecution case.

17. Whether the decision to "plead guilty" was a free choice or tainted by some kind of error¹² is a question for the tribunal to determine.¹³ This must occur in the context of deciding whether there would be a miscarriage of justice in refusing leave to the Respondent to resile from the previously adopted position.

⁷ (1992) 28 NSWLR 539 at 599.

⁸ Unreported, 7 February 1994.

⁹ At pp 8-9

¹⁰ At p13, see too *R v Vella* (1984) 14 A Crim R 90.

¹¹ (2004) 9 VR 355; 146 A Crim R 575 at [71].

¹² See eg *R v Chiron* [1980] 1 NSWLR 218 per Nagle CJ and Street J (Lee J dissenting) who concluded that the change of plea to guilty from which the accused wished to resile was the product of problematic advice from counsel and inappropriate comments by the trial judge. Similarly, see *R v Wilkes* [2001] NSWCCA 97

¹³ *R v Bartel* [2000] VSCA 92.

18. In *R v Hura*¹⁴, Spigelman CJ listed a number of grounds which can found a proper basis for a change of plea:
- 18.1 where the appellant "did not appreciate the nature of the charge to which the plea was entered": *Ferrer-Esis* (1991) 55 A Crim R 231 at 233.
 - 18.2 where the plea was not "a free and voluntary confession": *Chiron* [1980] 1 NSWLR 218 (at 220 D-E).
 - 18.3 the "plea was not really attributable to a genuine consciousness of guilt": *Murphy* [1965] VicRp 26; [1965] VR 187 at 191.
 - 18.4 where there was "mistake or other circumstances affecting the integrity of the plea as an admission of guilt": *Sagiv* (1986) 22 A Crim R 73 at 80.
 - 18.5 where the "plea was induced by threats or other impropriety when the applicant would not otherwise have pleaded guilty ...some circumstance which indicates that the plea of guilty was not really attributable to a genuine consciousness of guilt": *Cincotta* (Court of Criminal Appeal, NSW, No 60472 of 1995, 1 November 1995).
 - 18.6 the "plea of guilty must either be unequivocal and not made in circumstances suggesting that it is not a true admission of guilt": *Maxwell* (1995) 184 CLR 501 at 511; 186-187.
 - 18.7 if "the person who entered the plea was not in possession of all of the facts and did not entertain a genuine consciousness of guilt": *Davies* (1993) 19 MVR 481. See also *Ganderton* (unreported, Court of Criminal Appeal, NSW, No 60364 of 1998, 17 September 1998) and *Favero* [1999] NSWCCA 320.¹⁵
19. There is no principle that a plea of guilty must be set aside if the person entering it did not have a full and informed understanding of the applicable law, as distinct from knowledge of the facts constituting the offence.¹⁶
20. In *R v Middap*,¹⁷ the Victorian Court of Criminal Appeal (Crockett, O'Bryan and Gray JJ) remarked that:
- The only test which is to be applied is whether a miscarriage of justice, in the view of the judge would occur if the leave sought were denied the applicant. Each case must be examined on its own particular facts and merits and there is no question but that the judge has a discretion, indeed perhaps a wide discretion, to exercise in relation to the matter, which must be exercised judicially and having regard to the test ...
21. As Hunt J, with whom Gleeson CJ and Lee CJ at CL agreed, said in *R v Ferrer-Esis*:¹⁸
- ...an applicant will be permitted to withdraw a plea of guilty where he did not appreciate the nature of the charge to which the plea was entered.

¹⁴ [2001] NSWCCA 61; (2001) 121 A Crim R 472 at 478.

¹⁵ See also *R v Brooks and Childs* [2006] SASC 247.

¹⁶ *R v Mundraby* [2004] QCA 493 at [14] and [24].

¹⁷ (1989) 43 A Crim R 362 at 364.

The applicant for such permission does of course bear the onus of establishing that he did not have such appreciation.

22. A risk of a miscarriage of justice can occur in a variety of scenarios if a person is not permitted to change their plea. However, a mere change of mind or the adoption of a new strategy is not enough. In the New South Wales case *R v Boag*,¹⁹ Hunt CJ at CL stated:

Such a miscarriage will be established not only where the applicant did not appreciate the nature of the plea which he had entered but also, for example, if there was no evidence upon which he could have been convicted, or if he had not intended to admit that he was guilty or if his plea had been induced by a fraud or threats or other impropriety, when he would not otherwise have pleaded guilty.

23. In words particularly apposite to this case, his Honour later stated:

There has been no new material produced by the applicant since his plea which could reasonably be said to have placed a different complexion upon all of that material which he did have at the time of his plea. All that has happened is that different counsel has given the applicant more favourable advice as to a jury's likely reaction to that material than he was given by his counsel at the time of his plea. It is, however, clear that the applicant made a deliberate and fully informed choice to plead guilty at that time .. Subsequent advice has led him to change his mind as to the inevitability that he would be found guilty, but I am not satisfied that it has altered his recognition of his own guilt. A plea is a formal act admitting such guilt.²⁰

24. McInerney and James JJ agreed in the judgment.
25. Additionally, it is legitimate for the public policy reason for constraining such changes of position, which can be adopted for collateral motives (such as to delay the consequences of the decision), to be taken into account.
26. In *R v Liberty*²¹ Kirby P observed:

For good reasons, courts approach attempts at trial or on appeal in effect to change a plea of guilty or to assert a want of understanding of what was involved in such a plea with caution bordering on circumspection. This attitude rests on the high public interest in the finality of legal proceedings and upon the principle that a plea of guilty by a person in possession of all relevant facts is normally taken to be an admission by that person of the necessary legal ingredients of the offence.

27. This has become known as "the principle of restraint".²²
28. The tension or pressure that a defendant is usually under during a trial is not a factor that, of itself, calls for the intervention of the court, where the defendant wishes to resile from the plea of guilty entered during the trial due to that pressure.²³

¹⁸ (1991) 55 A Crim R 231 at 233. See too *R v Toro-Martinez* [2000] NSWCCA 216 at [16]-[27].

¹⁹ (1994) 73 A Crim R 35 at 37.

²⁰ At [39]

²¹ (1991) 55 A Crim R 120 at 122. Applied in *R v Boag* (1994) 73 A Crim R 35 at 39.

²² See eg *Norvenska v Director of Public Prosecutions (Cth)* [2007] NSWCCA 158 at [27]

Application of the Law to the Facts

29. In this matter, the Respondent has withdrawn a plea of guilty on two occasions, when represented by senior junior counsel and then by very experienced silk and a junior.
30. He is an intelligent, tertiary qualified health practitioner.
31. He does not allege mental illness, impropriety or incompetence on the part of counsel, or that he did not understand the nature and repercussions of his plea, namely that it constituted a formal admission of the factual ingredients of the professional misconduct to which he admitted.²⁴
32. He does not allege that his agreement to the proposed findings and determinations was tainted by wrong advice or a material misunderstanding caused by the Tribunal or anyone else.
33. Faced with the reality of no longer being a registered health practitioner, he has simply changed his mind, possibly to delay his deregistration further to his pecuniary advantage and to the risk of members of the public. None of the grounds in *R v Hura*²⁵ are invoked by the Respondent.
34. The "principle of restraint"²⁶ should be applied.
35. It is proper for the Tribunal to have regard to the strength of the case against the Respondent and, where no proper basis for a change of plea is established, to take a robust position in relation to such an application.²⁷
36. It is also appropriate for the Tribunal to have regard to the sound policy reasons that mitigate against permitting a change of position at so late a juncture and to the problematic precedent that allowing Dr Hooper to change his position would have for the disciplinary jurisdiction of VCAT.
37. There is no good reason for the Tribunal to permit his change of course and the authorities are against the exercise of such a discretion when no clear case is made out by the Respondent that denying him such a change would lead to a miscarriage of justice.

Dr Ian Freckelton SC

Counsel for the Applicant

9 November 2011

²³ *R v Chiron* [1980] 1 NSWLR 218 at [8] and [91]; see too *R v Nerbas* [2011] QSC 41; *Di Camillo v Wilcox* [1964] WAR 44; *Marlow v The Queen* [1990] TASSC 7 at [35].

²⁴ See *R v Inglis* [1917] VLR 672 at 674; *R v Tonks and Goss* [1963] VR 121 at 127.

²⁵ [2001] NSWCCA 61; (2001) 121 A Crim R 472 at 478.

²⁶ *Norvenska v Director of Public Prosecutions (Cth)* [2007] NSWCCA 158 at [27].

²⁷ For an example of this, see *R v Hopkins* [2011] VSC 540 per King J. See too [2001] NSWCCA 61; (2001) 121 A Crim R 472 at 478. See also *R v Brooks and Childs* [2006] SASC 247; *R v Stevie Mambor* [2010] ACTSC 30.

IN THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

AT MELBOURNE

No B112/2010

OCCUPATIONAL AND BUSINESS REGULATION LIST

B E T W E E N

CHIROPRACTIC BOARD OF AUSTRALIA

Applicant

-and-

DR MALCOLM HOOPER

Respondent

AFFIDAVIT OF ELSIE YEE MING LOH

Date of Document: 10 November 2011
Filed on behalf of: The Applicant
Prepared by:
Victorian Government Solicitor's Office
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Ref: 950493: EML
Attention: Elsie Loh
Email: elsie.loh@vgso.vic.gov.au

I, ELSIE YEE MING LOH of Level 39, 80 Collins Street, Melbourne, lawyer, make oath and say that:

1. I am a Senior Solicitor employed in the Victorian Government Solicitor's Office (VGSO).
I have had carriage of the present proceedings before the Victorian Civil and Administrative Tribunal (the VCAT) since 31 March 2011 on behalf of the Applicant. I make this affidavit from my own knowledge and belief, save where I have stated otherwise. My knowledge and belief are based on my carriage of the present proceedings, and examination of the VGSO's files relating to the VCAT proceeding B112/2010.

2. On Monday 31 October 2011, I accessed the Respondent's websites at

www.spinalrehab.com.au and www.hypermed.com.au.



3. Upon accessing www.hypermed.com.au, I observed that there was a video link on the homepage of the website to a testimonial by Mr Ercan Tekin, the notifier in the present proceedings (B112/2010).

Now produced and shown to me and marked 'EYL3-1' is a true copy of the homepage from www.hypermed.com.au as of 31 October 2011, which provided a link to Mr Tekin's video testimonial.

4. From the homepage of www.hypermed.com.au, I clicked on a link entitled '*Further to COMPLAINT - THE AGE October 25th 2011 - 'Evidence Suppressed - Patient Mr T'*'. The link took me to a news article on *The Age* website dated 25 October 2011 entitled, '*Chiropractor's oxygen treatment created false hope from hot air*'.

Now produced and shown to me and marked 'EYL3-2' is a true copy of the abovementioned news article from *The Age* website, accessed from www.hypermed.com.au on 31 October 2011.

5. From the homepage of www.hypermed.com.au, I clicked on a link entitled '*Hyperbaric Oxygen Therapy 22 Apr 2009 - Uploaded Video: tarks31: This me in a hyperbaric oxygen chamber to improve my cerebral palsy' Hyperbaric Cerebral Palsy Author: tarks 31*'. The link took me to a webpage powered by 'magnify.net' which provided a separate link to a video, which it said had been removed by the user.

Now produced and shown to me and marked 'EYL3-3' is a true copy of the 'magnify.net' page accessed from www.hypermed.com.au on 31 October 2011.

6. From the homepage of www.hypermed.com.au, I clicked on a link entitled '*Letter of demand to Mr T for payment outstanding fees*'. Upon clicking on the link, I accessed a letter from Dr Hooper to Mr E. T. dated 16 March 2009.



Malou

Now produced and shown to me and marked 'EYL3-4' is a true copy of the letter from Dr Hooper to Mr E. T. dated 16 March 2009, accessed from the www.hypermed.com.au on 31 October 2011.

7. From the homepage of www.hypermed.com.au, I clicked on a link entitled '*Admissions by Hooper Withdrawn 28-10-11*'. Upon clicking on the link, I accessed a letter from Dr Hooper to the VCAT, undated.

Now produced and shown to me and marked 'EYL3-5' is a true copy of the letter from Dr Hooper to the VCAT, undated, accessed from the www.hypermed.com.au on 31 October 2011.

8. On 7 November 2011, VGSO sent a letter to Dr Hooper, with enclosures, requesting that he remove all testimonials from his websites as soon as possible.

Now produced and shown to me and marked 'EYL3-6' is a true copy of the letter, with enclosures, from VGSO to Dr Hooper dated 7 November 2011.

9. I again accessed Dr Hooper's websites at www.spinalrehab.com.au and www.hypermed.com.au on 9 November 2011.

10. Upon accessing the website, www.hypermed.com.au, on this day, I observed that Mr Ercan's testimonial and the other links mentioned above at paragraphs 4 to 7 no longer appeared on this website.

11. Upon accessing the website, www.spinalrehab.com.au, on this day, I observed that Mr Ercan's testimonial and the other links mentioned above at paragraphs 4 to 7 continued to appear on www.spinalrehab.com.au. From the homepage of this website, I clicked on the link entitled '*Notice from VCAT 31-10-11*'. Upon clicking on the link, I accessed orders from VCAT dated 31 October 2011.



IN THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

AT MELBOURNE

No B112/2010

OCCUPATIONAL AND BUSINESS REGULATION LIST

BETWEEN

CHIROPRACTIC BOARD OF AUSTRALIA

Applicant

-and-

DR MALCOLM HOOPER

Respondent

CERTIFICATE IDENTIFYING EXHIBIT

Date of Document: 10 November 2011
Filed on behalf of: The Applicant
Prepared by:
Victorian Government Solicitor's Office
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Ref: 950493: EML
Attention: Elsie Loh
Email: elsie.loh@vgso.vic.gov.au

This is the Exhibit marked "EYL3-1" now produced and shown to **ELSIE YEE MING LOH** at the time of swearing her affidavit on 10 November 2011.

Before me:



Marissa Chorn
Level 39 80 Collins Street, Melbourne 3000
An Australian Legal Practitioner
within the meaning of the
Legal Profession Act 2004

Exhibit "EYL3-1"
**Homepage from www.hypermed.com.au as of 31 October 2011, which
provided a link to Mr Tekin's video testimonial.**

Sample Video Files

What is Hyperbaric Oxygen Therapy HBOT



HyperMED NeuroRecovery Channel | News And Updates



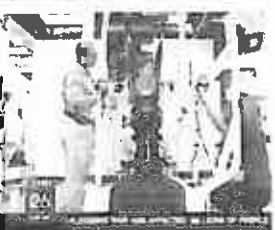
HyperMED NeuroRecovery Channel | News And Updates



HyperMED NeuroRecovery - follow up to June 07 Chapter



The Lokomat walking machine



HyperMED | Sports & Wellness | Spinal | NeuroRecovery

HyperMED 643 Chapel Street South Yarra Victoria 3141 | T +61 3 9826 9898 | F +61 3 9826 1818 | E info@hypermed.com.au

Hyperbaric Oxygenation | LOKOMAT (Adult And Paediatric Gait Assisted Robotics With BiofeedBack) | MonoRail Walking | NeuroAcupuncture | Median Nerve Stimulation | Vibration Training | Oxy-Sports | Activity Based Restorative Therapies (ABRT)

Further to COMPLAINT - THE AGE October 25th 2011 - Video Evidence Suppressed - Patient 'Mr T'

Adult Cerebral Palsy - HyperMED NeuroRecovery



tarks31 · Learn about

Reply | Spam
Remove | Block User

Hi it is me ercan First of all I like to thank everyone at hypermed for believing in me and I will not let them down I can honestly say these treatments which I am doing at the moment are by far the best I have tried. It is my dream/ goal to find a cure prevention for CP and nothing will stop me If there is anyone out there who feels the same way. I like to her from you so please message me. All the governments around the world take a serious look at this some thing need to be done!!!

Last date Mr T attended HyperMED - 13th May 2008

Posts removed by (author Mr T) tarks31 include:

Hyperbaric Oxygen Therapy: 22 Apr 2009 – Uploaded Video: tarks31 wrote: 'This is me in a hyperbaric oxygen chamber to improve my cerebral palsy' ... Hyperbaric Cerebral Palsy Author: tarks31

The Lokomat: 25 Sep 2008 – Uploaded Video: tarks31 wrote: 'The Lokomat is a robotic assisted walking machine, which reprograms the brain on the correct way to walk'. Author: tarks31 (fully removed)

Consumers Affairs Victoria (29-10-07) registered (#8248) for fund raising purposes www.ercantekun.net featuring comprehensive HBOT & Lokomat files - Author: tarks31. Site expiration 07-May-2010 (fully removed)

Letter of demand to Mr T for payment outstanding fees - May 2009

Complaint lodged by Mr T - June 2009

Admissions by Hooper (withdrawn) Friday 28th October

Hyperbaric Oxygenation - Why The Controversy?

HyperMED Mission Statement (1996)

HBOT Why The Controversy?	Sports Recovery Wellness	Cerebral Palsy	Hyperbaric Oxygenation
Patient Application	Disc Prolapse, Chronic Pain	Spinal Cord Injury	Beyond Therapy
Mission Statement	Cosmetic Enhancement	Autism, Development Delay	LOKOMAT
Vision 2011	Mental Health	Near Drowning	Median Nerve Stimulation
Welcome	Failed Spinal Surgery	Stroke	Cryotherapy
Fees & Charges	Delayed Fracture	Multiple Sclerosis	Vibration Training
Disclaimer	Crush Injury	Progressive Neurologic	Oxy Sports
Gallery	Chronic Fatigue Illness	Brain Injury	Autologous Stem Cells

HyperMED provides integrative hyperbaric oxygenation for individuals with focus on Health And Well-Being to individuals that have suffered disability due to a Catastrophic Event.

Texas Sports Hyperbarics Using Party Chambers



Hyperbaric Oxygen Therapy for Cerebral Palsy



How Robotic Assisted Gait Devices Help Patients Re-Learn to Walk Faster



For those with serious health issues HyperMED (beyond Therapy) and NeuroRecovery Protocols go beyond the conservative therapy program a person would normally receive as an in-patient or even attending an out-patients program where the focus is on 'coping and adapting to disability'. Most patients in the chronic phase of their condition become stagnant in virtually all aspects of recovery and motivation fade.

HyperMED is like a neuro-recovery boot camp; we make no apology for 'politely pushing the patient' - the objective is to penetrate the deeper neurovascular structures, unlock dormant pathways and promote functional changes.

HyperMED emphasizes the principles of neuroplasticity – 'the continuing capacity to salvage back what have been damaged activating dormant and inactive neurovascular structures'. For those suffering complex disability protocols are pivotal on several key clinical applications:

Hyperbaric Oxygenation (HBO) enriches available Oxygen into energy deprived (hypoxic) neurovascular structures.

Hypoxic Induced Apoptosis: (Excellent HyperMED Summary)

HBO significantly elevates and mobilizes the 'patients own' target specific stem cells (CD34+) Increasing circulating vascular growth factors enhancing immune responses and repair. This catalyst effect creates a fertile platform for recovery enabling the body capacity to re-train, re-organize and re-learn function.

Stem Cell Mobilization And Hyperbaric Oxygenation
Hyperbaric Oxygen Stimulates Vasculogenic Stem Cell Growth

Activity Based Rehabilitation including LOKOMAT Robotic Gait Training, Vibration Training, Median Nerve Stimulation, Neuro Acupuncture and other HyperMED supporting modalities provide tremendous opportunity for repetition and practice.

LOKOMAT - Australian HyperMED Experience

Hyperbaric stem cell mobilization combined with accurate, task specific rehabilitation drives functional changes (corticospinal) fostering new connections and improving patient conditioning even long after injury.

HyperMED VNI Submission 2009 - Victorian NeuroTrauma Initiative HyperMED unique & novel approach using Hyperbaric Oxygenation, Lokomat & Cerebrolysin - Spinal Cord Injury, Stroke & Brain Injury

HyperMED Cerebral Palsy Functional Outcomes Submission 2009 - HyperMED unique & novel approach using Hyperbaric Oxygenation, Lokomat & Cerebrolysin for Cerebral Palsy Adults & Paediatrics

All material on this site authored by Malcolm R. Hooper | Director HyperMED | E: info@hypermed.com.au

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Before me:



Marissa Chorn
Level 30, 80 Collins Street, Melbourne 3000
An Australian Legal Practitioner
within the meaning of the
Legal Profession Act 2004

Exhibit "EYL3-2"
Article from *The Age* website entitled '*Chiropractor's oxygen treatment created false hope from hot air*' accessed from www.hypermed.com.au
on 31 October 2011.

Chiropractor's oxygen treatment created false hope from hot air

Kate Hagan
October 25, 2011

A CHIROPRACTOR who provided hundreds of hours of hyperbaric oxygen treatment to a man with cerebral palsy took advantage of a vulnerable patient for his own financial benefit, a tribunal has heard.

Dr Malcolm Hooper, 51, has admitted making false representations about his ability to treat cerebral palsy with oxygen in providing 231 hours of the treatment to patient 'Mr T', a disability pensioner who incurred debts of more than \$44,000.

Mr T also received 66 hours of treatment on a treadmill-like device that purportedly helps the body relearn how to walk.

The patient initially believed that he was benefiting from the treatment but later told authorities he had seen no lasting improvement and felt betrayed by Hooper.

He paid Hooper thousands of dollars, including the proceeds of fund-raising, for treatment at his Collins Street clinic from September 2007 to May 2008.

A three-member panel sitting at the Victorian Civil and Administrative Tribunal yesterday heard that Hooper also claimed the oxygen treatment could improve epilepsy, multiple sclerosis, Parkinson's disease, infertility and AIDS.

Hooper has claimed that hyperbaric oxygen treatment - involving the inhalation of 100 per cent oxygen in a pressure chamber - could "promote functional immune responses by correcting hypoxia in damaged tissue structures".

But Ian Freckellon, SC, for the Chiropractic Board of Australia, said Hooper had fudged the real state of the scientific literature to sell unproven treatments, describing his conduct as "disgraceful and dishonourable".

He said advertising on Hooper's HyperMED clinic website was deceptive because it invited potential patients to draw inaccurate inferences about the effectiveness of his treatments.

Dr Freckellon said it would be inappropriate to view Hooper as a martyr or pioneer battling the medical establishment when, in fact, he had been in a position of power over his patients. "[Hooper] held out promises and hope when there was no proper basis to do so," he said.

Dr Freckellon said Hooper, who now practised from an address in Chapel Street, South Yarra, presented an ongoing risk to patients because he appeared to retain a belief in oxygen as a viable treatment for various conditions.

The chiropractic board and Hooper reached a joint position on proposed actions to be taken by the tribunal, which included reprimanding him for failing to obtain sufficiently informed consent from Mr T.

They also recommended cancelling Dr Hooper's registration as a chiropractor for at least two years, and prohibiting him from using the title of "doctor" unless he regained registration.

The tribunal will deliver its decision at a date to be fixed.



Dr Malcolm Hooper. Photo: Craig Abraham

IN THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

AT MELBOURNE

No B112/2010

OCCUPATIONAL AND BUSINESS REGULATION LIST

B E T W E E N

CHIROPRACTIC BOARD OF AUSTRALIA

Applicant

-and-

DR MALCOLM HOOPER

Respondent

CERTIFICATE IDENTIFYING EXHIBIT

Date of Document: 10 November 2011

Filed on behalf of: The Applicant

Prepared by:

Victorian Government Solicitor's Office

Level 25

121 Exhibition Street

Melbourne VIC 3000

Solicitor's Code: 7977

Telephone: +61 3 9032 3000

Facsimile: +61 3 9032 3049

DX 300077 Melbourne

Ref: 950493: EML

Attention: Elsie Loh

Email: elsie.loh@vgso.vic.gov.au

This is the Exhibit marked "EYL3-3" now produced and shown to **ELSIE YEE MING LOH** at the time of swearing her affidavit on 10 November 2011.

Before me:



Marissa Chorn
Level 39 80 Collins Street, Melbourne 3000
An Australian Legal Practitioner
within the meaning of the
Legal Profession Act 2004

Exhibit "EYL3-3"
The 'magnify.net' page accessed from www.hypermed.com.au on
31 October 2011.

Hyperbaric Oxygen Therapy

The Hyperbaric
Oxygen
Therapy
Channel

[Sign In](#) [Support](#) [Create Your Own Channel](#)



hyperbraic

Submitted By: Anonymous on 2009-04-22
About the video: tarks31 wrote: This is me ina
hyperbraic oxygen chamber to improve my
cerebral Palsy ... Hyperbaric Cerebral Palsy

Hosted At YouTube | Viewed 80 times



Powered by [Magnify.net](#) [More Channels](#) [Privacy](#) [Send Us Feedback](#)

IN THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

AT MELBOURNE

No B112/2010

OCCUPATIONAL AND BUSINESS REGULATION LIST

B E T W E E N

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Prepared by:
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121 Exhibition Street
Melbourne VIC 3000

Solicitor's Code: 7977
Telephone: +61 3 9032 3000
Facsimile: +61 3 9032 3049
DX 300077 Melbourne
Ref: 950493: EML
Attention: Elsie Loh
Email: elsie.loh@vgso.vic.gov.au

This is the Exhibit marked "EYL3-4" now produced and shown to **ELSIE YEE MING LOH** at the time of swearing her affidavit on 10 November 2011.

Before me:



Marissa Chorn

Level 39 80 Collins Street, Melbourne 3000
An Australian Legal Practitioner
within the meaning of the
Legal Profession Act 2004

Exhibit "EYL3-4"
**Letter from Dr Hooper to Mr E. T. dated 16 March 2009, accessed
from www.hypermed.com.au on 31 October 2011.**



NeuroRecovery

13th floor 15 Collins St Melbourne 3001 ABN 006 582 529

13th floor 15 Collins St Melbourne 3001 ABN 006 582 529

16th March 2009

Mr. E T
XXXX
XXXX

Dear E,

I trust you are well?!

You commenced rehab at HyperMED on 13th September 2007. You stated on numerous occasions that your account would be paid. You supplied copy of the Department of Justice Fundraising Appeal and stated that this would enable you to raise the funds in order to pay for your treatment. On many occasion I spoke with your regarding your account; you repeatedly stated that the money would not be a problem and the account paid. You also mentioned you had a friend who was doing up a Mustang car which would be sold as part of a funds raising appeal and you would receive the benefits. You also mentioned you had money collection tins out and about!

I have written many times and spoken with you also on many occasions. On each and every occasion you have confirmed that the account would be paid and that you were actively raising funds to support your therapy.

My concerns are that unless I write or text you you do not keep us informed of your intended payment progress. Your payments have been very infrequent and only in response to me chasing you!

Exxx we would not have committed our services to you if we had known that we would only receive very small payments with the greater bulk remaining outstanding for over 15-months. This is completely unreasonable and certainly no other organization would have tolerated this fact for this length of time! I am confident that you are not attempting to abuse our dedication and commitment as we also have many other patients in a similar health and financial situation as yourself however all other patients fulfill their responsibility based on what had been agreed.

We cannot simply go on without some definite and regular payment arrangement. Mr. DA our accountant has spoken and written on several occasions – he is concerned that you will not honor your debt and has requested that your outstanding account be placed immediately with a debt recovery agency.

Exxx – please write to me and tell me exactly how you intend to pay this account. We cannot tolerate this outstanding debt any longer. You will need to arrange a loan from a bank which is effectively what we have been doing for you but without interest. This goodwill gesture has now expired!

Sincerely,

Dr Mal Hooper
HyperMED NeuroRecovery
13th floor 15 Collins St Melbourne 3001 ABN 006 582 529

13th floor 15 Collins St Melbourne 3001 ABN 006 582 529 Tel: 03 9650 3130 Fax: 03 9650 3150

W: hypermed.com.au • neurorehab.com.au • mypage.com.au • Email: hypermed@hypermed.com.au



IN THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

AT MELBOURNE

No B112/2010

OCCUPATIONAL AND BUSINESS REGULATION LIST

B E T W E E N

CHIROPRACTIC BOARD OF AUSTRALIA

Applicant

-and-

DR MALCOLM HOOPER

Respondent

CERTIFICATE IDENTIFYING EXHIBIT

Date of Document: 10 November 2011
Filed on behalf of: The Applicant
Prepared by:
Victorian Government Solicitor's Office
Level 25
121 Exhibition Street
Melbourne VIC 3000

Solicitor's Code: 7977
Telephone: +61 3 9032 3000
Facsimile: +61 3 9032 3049
DX 300077 Melbourne
Ref: 950493: EML
Attention: Elsie Loh
Email: elsie.loh@vgso.vic.gov.au

This is the Exhibit marked "EYL3-5" now produced and shown to **ELSIE YEE MING LOH** at the time of swearing her affidavit on 10 November 2011.

Before me:



Marissa Chorn
Level 39 80 Collins Street, Melbourne 3000
An Australian Legal Practitioner
within the meaning of the
Legal Profession Act 2004

Exhibit "EYL3-5"
Letter from Dr Hooper to the VCAT, undated, accessed from
www.hypermed.com.au on 31 October 2011.

Deputy President Lambrick
vcat@vcat.vic.gov.au

The Honourable Justice Ross

Victorian Civil and Administrative Tribunal Supreme Court of Victoria
55 King Street, Melbourne VIC 3000 210 William Street, Melbourne VIC 3000

Thomas Patereskos Associate to the Honourable Justice Ross
thomas.patereskos@supremecourt.vic.gov.au

Hooper ats Chiropractic Board of Australia
No B112/2010

Dear Sir/Madam,

I withdraw the Proposed Agreed Findings and Determination (“the Proposal”) submitted by my legal counsel to VCAT on 13 October 2011 and seek a trial of the matter as soon as possible.

I vehemently reject all particulars detailed in the Proposal and look forward to a full examination at the trial of all material supplied to date by my legal advisors.

The Proposal was negotiated under a position of ‘extreme duress’ as I had advised my legal advisors my financial resources were exhausted and that I would be unable to fund their fees for a trial. To date, my legal expenses have exceeded \$450,000.

Today I have terminated the services of my legal advisors and will now act for myself in all future proceedings.

In particular, I look forward to a full consideration of the extensive video evidence submitted of the Applicant’s prime witness, Mr Tekin, relating to his favourable treatment responses under my care.

I request favourable consideration for Justice Ross to preside over this matter at the trial hearing.

Yours faithfully,

Dr Malcolm R. Hooper (Chiro)
HyperMED
643 Chapel St South Yarra 3141
Ph 9826 9898

IN THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

AT MELBOURNE

No B112/2010

OCCUPATIONAL AND BUSINESS REGULATION LIST

B E T W E E N

CHIROPRACTIC BOARD OF AUSTRALIA

Applicant

-and-

DR MALCOLM HOOPER

Respondent

CERTIFICATE IDENTIFYING EXHIBIT

Date of Document: 10 November 2011
Filed on behalf of: The Applicant
Prepared by:
Victorian Government Solicitor's Office
Level 25
121 Exhibition Street
Melbourne VIC 3000

Solicitor's Code: 7977
Telephone: +61 3 9032 3000
Facsimile: +61 3 9032 3049
DX 300077 Melbourne
Ref: 950493: EML
Attention: Elsie Loh
Email: elsie.loh@vgso.vic.gov.au

This is the Exhibit marked "EYL3-6" now produced and shown to **ELSIE YEE MING LOH** at the time of swearing her affidavit on 10 November 2011.

Before me:



Marissa Chorn
Level 39 80 Collins Street, Melbourne 3000
An Australian Legal Practitioner
within the meaning of the
Legal Profession Act 2004

Exhibit "EYL3-6"
Letter with enclosures, from VGSO to Dr Hooper dated
7 November 2011.



VICTORIAN GOVERNMENT
SOLICITOR'S OFFICE

Our reference: 950493

Contact details: Elsie Loh
(03) 9032 3036 (direct line)
elsie.loh@vgso.vic.gov.au

Marissa Chorn
(03) 9032 3001 (direct line)
marissa.chorn@vgso.vic.gov.au

All correspondence to:
PO Box 4356
Melbourne 3001 Australia
DX 300077 Melbourne

7 November 2011

Dr Malcolm Hooper
HyperMED
643 Chapel Street
South Yarra 3141

By courier

Dear Mr Hooper

**Chiropractic Board of Australia v Dr Malcolm Hooper
(VCAT Ref: B112/2010)**

We refer to the above matter and the hearing on Monday 14 November 2011 at 9.30 am at the Victorian Civil and Administrative Tribunal (VCAT), 55 King Street Melbourne.

Withdrawal of consent to the 'Proposed Agreed Findings and Determination'

We understand that you have informed VCAT that you wish to withdraw your consent to the 'Proposed Agreed Findings and Determination' (terms of settlement) submitted to VCAT on 13 October 2011.

The Chiropractic Board of Australia (the Board) strongly opposes your application to withdraw your consent to the terms of settlement and, in particular, your proposal to resile from the admissions contained in the terms of settlement. Counsel for the Board intends to make submissions to VCAT on this issue at the hearing on 14 November 2011.

We will also be seeking an order that you pay the Board's costs in this proceeding in the following terms (on the basis that these are costs 'thrown away'):

1. If you are successful in your application to resile from the terms of settlement, we will be seeking the Board's costs arising from the compulsory conference heard before Justice Ross on 11 October 2011, the hearing in Justice Ross's chambers on 13 October 2011, the hearing before the Panel at VCAT on 24 October 2011 as well as Counsel's fees for the preparation of written submissions made at the hearing on 24 October 2011.

2. If you are unsuccessful in your application, we will be seeking the Board's costs arising from our preparation for, and Counsel's appearance at, the hearing of your application to withdraw your consent to the terms of settlement on 14 November 2011.

Breach of your undertaking

We refer to our letters to Carter Lawyers dated 22 and 30 August 2011 respectively (copies are enclosed). The testimonial of the notifier in this matter currently appears on your websites: www.spinalrehab.com.au and www.hypermed.com.au.

This is in breach of your undertaking to VCAT, made on 20 April 2011, in which you undertook to comply with the *Guidelines for Advertising of Regulated Health Services (Guidelines)*. The Guidelines strictly prohibit the use of patient testimonials to advertise health services.

We will also be raising this issue with VCAT at the hearing on 14 November 2011. In the meantime, you must immediately remove this testimonial from the abovementioned websites to ensure compliance with the Undertaking.

Yours faithfully
Victorian Government Solicitor's Office



Katie Miller
Principal Solicitor

*Cc: Attention: Deputy President H. Lambrick; Principal Registrar,
Occupational and Business Regulation List, Victorian Civil and Administrative Tribunal*



VICTORIAN GOVERNMENT
SOLICITOR'S OFFICE

Your reference:

Our reference: 950493

Contact details: Elsie Loh
(03) 9032 3036 (direct line)
elsie.loh@vgs0.vic.gov.au

All correspondence to:
PO Box 4356
Melbourne 3001 Australia
DX 300077 Melbourne

30 August 2011

Mr David Carter
Carter Lawyers
Level 1
159 Dorcas Street
South Melbourne 3205

Attention: Ms Leanne Scott

By email: leanne@carterlawyers.com.au

Dear Sir/Madam

Chiropractic Board of Australia v Hooper (VCAT Ref: B112/2010)
Undertaking by Dr Hooper

We refer to the above matter and your letter of 29 August 2011 in relation to the Undertaking provided by Dr Hooper on 20 April 2011.

Response to your letter

In your letter, you note that the offending pages discovered by the Applicant were only able to be accessed by typing in the exact web address. We draw your attention to the information contained in the column entitled 'Hyperlink (from index)' in Schedule 1 to our letter of 22 August 2011, which outlines how each of the offending pages could be accessed from the homepage of the website.

The Applicant does not accept the assertion that the offending pages were only able to be accessed because our server had not been refreshed and was therefore bringing up webpages that had been 'cached in our system.' The offending pages, specified in Schedule 1 to our letter of 22 August 2011, were accessed on multiple dates, by multiple persons, using different computers.

In addition, we draw to your attention that many of the URLs for the material which is now described as "case studies" (see eg <http://www.hypermed.com.au/Testimonial/parkera.htm>; <http://www.hypermed.com.au/Testimonial/huizera.htm>) in fact designate the material to be a "testimonial" and that, although, the names of the patients are anonymised in the text, their names are identifiable in the URLs. If Dr Hooper wishes to maintain the position that these "case studies" are not testimonials, these descriptors should not be used and need to be



attended to with expedition. We seek an undertaking that these matters will be rectified within 7 days of today's date.

Consequence of further breaches

We note that it is Dr Hooper's responsibility, not that of the Applicant, to ensure compliance with the Undertaking and to identify the presence of any offending material. Given the Applicant's identification of several offending pages, we strongly recommend that Dr Hooper perform a thorough audit of his website to ensure that he complies with every aspect of the Undertaking. If the Applicant becomes aware of any further breaches of the Undertaking, we put you on notice that we shall bring the issue to the immediate attention of VCAT without any further prior notice to the Respondent.

Yours faithfully
Victorian Government Solicitor's Office



Jonathan Smithers
Assistant Victorian Government Solicitor

cc:- Sarah Mauriks, Associate to President Justice Ross



VICTORIAN GOVERNMENT
SOLICITOR'S OFFICE

Your reference:

Our reference: 950493

Contact details: Elsie Loh
(03) 9032 3036 (direct line)
elsie.loh@vgso.vic.gov.au

All correspondence to:
PO Box 4356
Melbourne 3001 Australia
DX 300077 Melbourne

22 August 2011

Mr David Carter
Carter Lawyers
Level 1
159 Dorcas Street
South Melbourne 3205

Attention: Ms Leanne Scott

By email: leanne@carterlawyers.com.au

Dear Sir/Madam

Chiropractic Board of Australia v Hooper; VCAT B112/2010
Undertaking by Dr Hooper

We refer to the above matter and the Undertaking provided by Dr Hooper on 20 April 2011.

Pursuant to the undertaking, Dr Hooper (and HyperMed) agreed to comply with the *Guidelines for Advertising of Regulated Health Services* and to remove 'patient testimonials' from the HyperMed website by 6 May 2011. Dr Hooper (and HyperMed) also agreed to comply with the *Fundraising Act 1998*.

This office is reviewing the HyperMed website (hosted at www.spinalrehab.com.au and www.hypermed.com.au) at regular intervals to monitor Dr Hooper's (and HyperMed's) compliance with the Undertaking. Having reviewed the HyperMed website on 22 July 2011 and again on 28 July 2011, we believe that Dr Hooper and HyperMed continues to be in breach of the Undertaking as several 'patient testimonials' and requests for donations to the HyperMED Neurorecovery Foundation still appear on the website. In particular, we require Dr Hooper to remove the webpages specified in Schedules 1 and 2 to ensure compliance with the Undertaking.

If Dr Hooper does not rectify his non-compliance, the Applicant intends to bring the matter to the attention of VCAT. We require the Applicant to comply with the Undertaking by COB 29 August 2011.

Southern Cross: Level 25, 121 Exhibition Street Melbourne VIC 3000
Nauru House: Level 33, 80 Collins Street Melbourne VIC 3000

www.vgso.vic.gov.au

Tel: +61 3 8684 0444 Fax: +61 3 8684 0449
Tel: +61 3 9947 1444 Fax: +61 3 9947 1499



If you wish to discuss anything further please contact Elsie Loh on 9032 3036.

Yours faithfully
Victorian Government Solicitor's Office



JS Jonathan Smithers
Assistant Victorian Government Solicitor

Schedule 1- Patient Testimonials

Note: The highlighted entries list webpage addresses (relating to patient testimonials) which are duplicates of those already listed, but which have been reached through a different pathway (different 'Hyperlink (from index)' column). For example, compare entry number 1 and 13, and entry number 8 and 10.

No.	Hyperlink (from index)	Webpage Address	Patient Testimonials
1.	'Case Studies' → picture of Tate Kemp	http://www.hypermed.com.au/Testimonial/Tate%20Kemp.htm	- Tate Kemp
2.	'Case Studies' → 'HyperMED UPDATE T6 Incomplete - South Africa'	http://www.hypermed.com.au/Testimonial/Dion%20McCafferty.htm	- Dion McCaffery
3.	'Newsletters' → 'HyperMED 'Beyond Therapy' May 07'	http://www.hypermed.com.au/HyperMED%20Newsletters/HyperMED%20NeuroRecovery%20May%202007.pdf	- Chloe Bloch - Isabel Martin - Nicholas North
4.	'Newsletters' → 'HyperMED March 07'	http://www.hypermed.com.au/HyperMED%20Newsletters/HyperMED%20Lokomat%20NeuroRecovery%20Newsletter%20March%202007.pdf	- John - Oscar
5.	'Newsletters' → 'HyperMED Jan 07 - 'a Step in the Right direction''	http://www.hypermed.com.au/HyperMED%20Newsletters/HyperMED%20Newsletter%20Jan%202007.pdf	- Peter Roefs - Lee Burrows - Jinah Kim - Graeme Little - Minnie Veljkovic - Greg Bound - Will Patterson - Sarah Gray
6.	'Newsletters' → 'HyperMED Oct 06'	http://www.hypermed.com.au/HyperMED%20Newsletters/HyperMED%20SUPPORT%20-%20Brain%20Injured%20Children.pdf	- Jonah Iudica - Chloe Griffiths - Benjamin Allen - Brittney Guerra - Leih Diver - Jessi Rac Clarke - Muhammad Nouredine - Natasha Smart - Madeline Tomic - Jason Stedwell - Nicholas North - Raquel Williams

No.	Hyperlink (from Index)	Webpage Address	Patient Testimonial
7.	'Newsletters' → 'HyperMED Sept 06'	http://www.hypermed.com.au/HyperMED%20Newsletters/HyperMED%20Newsletter%20September%202006.pdf	<ul style="list-style-type: none"> - Chloe - Jessie - Muhammad Nouredine - Jinah Kim - Paul Hargroves - Paul Zappulla
8.	'Disc Prolapse, Chronic Pain' → 'HyperMED Spinal Case Studies' → 'Business Women's Review Magazine August 2005 features Dr Hooper : A Borderless Breakthrough - Hyperbaric Oxygenation' → BLOG → 'HyperMED BLOG/HyperMED - Autism, Attention Deficit, Speech Delay, Global Development Delay, Pervasive Development Disorder.pdf'	http://www.hypermed.com.au/HyperMED%20BLOG/HyperMED%20-%20Patrick%20Schreuder%20-%20Autism,%20Attention%20Deficit,%20Speech%20Delay,%20Global%20Development%20Delay,%20Pervasive%20Development%20Disorder.pdf	<ul style="list-style-type: none"> - Patrick Schreuder
9.	'Disc Prolapse, Chronic Pain' → 'HyperMED Spinal Case Studies' → 'Business Women's Review Magazine August 2005 features Dr Hooper : A Borderless Breakthrough - Hyperbaric Oxygenation' → BLOG → 'HyperMED BLOG/HyperMED - Cerebral Lupus - Is Recovery Possible - July 2010.2.pdf'	http://www.hypermed.com.au/HyperMED%20BLOG/HyperMED%20-%20Cerebral%20Lupus%20-%20Is%20Recovery%20Possible%20-%20July%202010.2.pdf	<ul style="list-style-type: none"> - Christine Tountzia
10.	'Failed Spinal Surgery' → 'HyperMED Spinal Case Studies' → 'Business Women's Review Magazine August 2005 features Dr Hooper : A Borderless Breakthrough - Hyperbaric Oxygenation' → BLOG → 'HyperMED BLOG/HyperMED - Autism, Attention Deficit, Speech Delay, Global Development Delay, Pervasive Development Disorder.pdf'	http://www.hypermed.com.au/HyperMED%20BLOG/HyperMED%20-%20Patrick%20Schreuder%20-%20Autism,%20Attention%20Deficit,%20Speech%20Delay,%20Global%20Development%20Delay,%20Pervasive%20Development%20Disorder.pdf	<ul style="list-style-type: none"> - Patrick Schreuder

No.	Hyperlink (from index)	Webpage Address	Patient Testimonial
11.	'Failed Spinal Surgery' → 'HyperMED Spinal Case Studies' → 'Business Women's Review Magazine August 2005 features Dr Hooper : A Borderless Breakthrough - Hyperbaric Oxygenation' → BLOG → 'HyperMED BLOG/HyperMED - Cerebral Lupus - Is Recovery Possible - July 2010.2.pdf'	http://www.hypermed.com.au/HyperMED%20BLOG/HyperMED%20-%20Cerebral%20Lupus%20-%20Is%20Recovery%20Possible%20-%20July%202010.2.pdf	- Christine Tountzis
12.	'Delayed Wounds'	http://www.hypermed.com.au/HyperMED/HyperMED%20Chronic%20Wounds.htm	- Jim Frame
13.	'Cerebral Palsy, Birth Hypoxia' → 'HyperMED UPDATE Tate Kemp (Ataxic Hypotonic Cerebral Palsy)' and picture of Tate Kemp	http://www.hypermed.com.au/Testimonial/Tate%20Kemp.htm	- Tate Kemp
14.	'Cerebral Palsy, Birth Hypoxia' → 'HyperMED Australia : LOKOMAT NeuroRecovery' → 'HyperMED/HyperMED Newsletter Spinal Cord Injury 2009.pdf'	http://www.hypermed.com.au/HyperMED%20Newsletters/HyperMED%20Newsletter%20Spinal%20Cord%20Injury.pdf	- Isabella Del Castillo - Isabel Martin - Dion McCafferty
15	'Cerebral Palsy, Birth Hypoxia' → 'HyperMED Australia : LOKOMAT NeuroRecovery' → 'HyperMED/HyperMED Pediatric Brain Injury - Cerebral Palsy 2008.pdf'	http://www.hypermed.com.au/HyperMED%20Newsletters/HyperMED%20Pediatric%20Brain%20Injury%20-%20Cerebral%20Palsy,%20Hypoxia,%20Autism,%20Development%20Delay.pdf	- Jerissi Martin - Will Patterson - Abby Godfrey - Nicholas North - Ashton Hayes - Raquel Williams - Benjamin Allen - Brittney Guerra - Sarah Grey - Chike Bloch - Muhammad Nouredine
16.	'LOKOMAT Robotic Walking' → 'HyperMED/HyperMED Newsletter Spinal Cord Injury 2009.pdf'	http://www.hypermed.com.au/HyperMED%20Newsletters/HyperMED%20Newsletter%20Spinal%20Cord%20Injury.pdf	- Isabella Del Castillo - Isabel Martin - Dion McCafferty

No.	Hyperlink (from Index)	Webpage Address	Patient Testimonial
17.	LOKOMAT Robotic Walking' → HyperMED/HyperMED Pediatric Brain Injury - Cerebral Palsy 2008.pdf	http://www.hypermed.com.au/HyperMED%20Newsletters/HyperMED%20Pediatric%20Brain%20Injury%20-%20Cerebral%20Palsy,%20Hypoxia,%20Autism,%20Development%20Delay.pdf	<ul style="list-style-type: none"> - Isabel Martin - Will Patterson - Abby Godfrey - Nicholas North - Ashton Hayes - Raquel Williams - Benjamin Allen - Brittney Guerra - Sarah Gray - Chloe Bloch - Muhammad Noureddine
18.	'Drowning, Stroke' → HyperMED UPDATE Tate Kemp (Ataxic Hypotonic Cerebral Palsy) and picture of Tate Kemp	http://www.hypermed.com.au/Testimonial/Tate%20Kemp.htm	- Tate Kemp
19.	'Spinal Cord Injury' → HyperMED Newsletters/HyperMED Newsletter Spinal Cord Injury.pdf	http://www.hypermed.com.au/HyperMED%20Newsletters/HyperMED%20Newsletter%20Spinal%20Cord%20Injury.pdf	<ul style="list-style-type: none"> - Isabella Del Castillo - Isabel Martin - Dion McCafferty
20.	'Stroke' → HyperMED Australia : LOKOMAT NeuroRecovery' → HyperMED/HyperMED Newsletter Spinal Cord Injury 2009.pdf	http://www.hypermed.com.au/HyperMED%20Newsletters/HyperMED%20Newsletter%20Spinal%20Cord%20Injury.pdf	<ul style="list-style-type: none"> - Isabella Del Castillo - Isabel Martin - Dion McCafferty
21.	'Stroke' → HyperMED Australia : LOKOMAT NeuroRecovery' → HyperMED/HyperMED Pediatric Brain Injury - Cerebral Palsy 2008.pdf	http://www.hypermed.com.au/HyperMED%20Newsletters/HyperMED%20Pediatric%20Brain%20Injury%20-%20Cerebral%20Palsy,%20Hypoxia,%20Autism,%20Development%20Delay.pdf	<ul style="list-style-type: none"> - Isabel Martin - Will Patterson - Abby Godfrey - Nicholas North - Ashton Hayes - Raquel Williams - Benjamin Allen - Brittney Guerra - Sarah Gray - Chloe Bloch - Muhammad Neureddine
22.	'Multiple Sclerosis' → HyperMED Australia : LOKOMAT NeuroRecovery' → HyperMED/HyperMED Newsletter Spinal Cord Injury 2009.pdf	http://www.hypermed.com.au/HyperMED%20Newsletters/HyperMED%20Newsletter%20Spinal%20Cord%20Injury.pdf	<ul style="list-style-type: none"> - Isabella Del Castillo - Isabel Martin - Dion McCafferty

No.	Hyperlink (from index)	Webpage Address	Patient Testimonial
23.	'Multiple Sclerosis' → 'HyperMED Australia : LOKOMAT NeuroRecovery' → 'HyperMED/HyperMED Pediatric Brain Injury - Cerebral Palsy 2008.pdf	http://www.hypermed.com.au/HyperMED%20Newsletters/HyperMED%20Pediatric%20Brain%20Injury%20-%20Cerebral%20Palsy,%20Hypoxia,%20Autism,%20Development%20Delay.pdf	<ul style="list-style-type: none"> - Isabel Martin - Will Patterson - Abby Godfrey - Nicholas North - Ashton Hayes - Raquel Williams - Benjamin Allen - Brittney Guerra - Sarah Gray - Chloe Bloch - Muhammad Nouredine
24.	'Brain Injury' → 'HyperMED Newsletter Brain Injury - Cerebral Palsy 2008.pdf	http://www.hypermed.com.au/HyperMED%20Newsletters/HyperMED%20Pediatric%20Brain%20Injury%20-%20Cerebral%20Palsy,%20Hypoxia,%20Autism,%20Development%20Delay.pdf	<ul style="list-style-type: none"> - Isabel Martin - Will Patterson - Abby Godfrey - Nicholas North - Ashton Hayes - Raquel Williams - Benjamin Allen - Brittney Guerra - Sarah Gray - Chloe Bloch - Muhammad Nouredine
25.	'Radiation Necrosis' → 'HyperMED/Hypoxic Induced Apoptosis - HyperMED.pdf	http://www.hypermed.com.au/HyperMED/Hypoxic%20Induced%20Apoptosis%20-%20HyperMED.pdf	<ul style="list-style-type: none"> - Jinah Kim

Schedule 2- Request for donations

No.	Hyperlink (from index)	Website Address	Request for donations
26.	Disc Prolapse, Chronic Pain' → 'HyperMED Spinal Case Studies' → 'Business Women's Review Magazine August 2005 features Dr Hooper : A Borderless Breakthrough - Hyperbaric Oxygenation' → ' <u>HyperMED Foundation</u> '	<p> http://www.hypermed.com.au/Updates/Business%20Women's%20Review%20Magazine%20%20August%202005%20features%20Dr%20Hooper%20%20A%20Borderless%20Breakthrough%20-%20Hyperbaric%20Oxygenation.htm and http://www.hypermed.com.au/HyperMED%20NeuroRecovery%20Foundation/HyperMED%20NeuroRecovery%20Foundation.htm </p>	HyperMED NeuroRecovery Foundation

IN THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

AT MELBOURNE

No B112/2010

OCCUPATIONAL AND BUSINESS REGULATION LIST

B E T W E E N

CHIROPRACTIC BOARD OF AUSTRALIA

Applicant

-and-

DR MALCOLM HOOPER

Respondent

CERTIFICATE IDENTIFYING EXHIBIT

Date of Document: 10 November 2011
Filed on behalf of: The Applicant
Prepared by:
Victorian Government Solicitor's Office
Level 25
121 Exhibition Street
Melbourne VIC 3000

Solicitor's Code: 7977
Telephone: +61 3 9032 3000
Facsimile: +61 3 9032 3049
DX 300077 Melbourne
Ref: 950493: EML
Attention: Elsie Loh
Email: elsie.loh@vgso.vic.gov.au

This is the Exhibit marked "EYL3-7" now produced and shown to **ELSIE YEE MING LOH** at the time of swearing her affidavit on 10 November 2011.

Before me: 

Marissa Chori
Level 39 80 Collins Street, Melbourne 3000
An Australian Legal Practitioner
within the meaning of the
Legal Profession Act 2004

Exhibit "EYL3-7"
Orders made by Deputy President Lambrick on 31 October 2011
accessed from www.spinalrehab.com.au on 9 November 2011.

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL
ADMINISTRATIVE DIVISION
OCCUPATIONAL & BUSINESS
REGULATION LIST**

VCAT Reference: B112/2010

APPLICANT: Chiropractic Board of Australia
RESPONDENT: Dr Malcolm Hooper
OTHER PARTIES:
BEFORE: Deputy President Lambrick
HEARING TYPE: In Chambers
DATE OF ORDER: 31 October 2011

ORDERS

It having been brought to our attention that Dr Hooper seeks to withdraw his consent to the Tribunal considering the Proposed Agreed Findings and Determination, the matter shall be listed for a directions hearing on a date and time to be fixed by the principal registrar to enable the parties to make submissions as to the further conduct of this matter



H. Lambrick
DEPUTY PRESIDENT H. LAMBRICK

IN THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

AT MELBOURNE

No B112/2010

OCCUPATIONAL AND BUSINESS REGULATION LIST

BETWEEN

CHIROPRACTIC BOARD OF AUSTRALIA

Applicant

-and-

DR MALCOLM HOOPER

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DX 300077 Melbourne
Ref: 950493: EML
Attention: Elsie Loh
Email: elsie.loh@vgso.vic.gov.au

This is the Exhibit marked "EYL3-8" now produced and shown to **ELSIE YEE MING LOH** at the time of swearing her affidavit on 10 November 2011.


Before me: 
Marissa Christ
Level 39 80 Collins Street, Melbourne 3000
An Australian Legal Practitioner
within the meaning of the
Legal Profession Act 2008

Exhibit "EYL3-8"
Email from Mr Hooper, received on 9 November 2011 and the website, www.hypermed.com.au, to which the 'make a donation' link goes to



"HyperMED"
<info@hypermed.com.au>
09/11/2011 08:35 AM

To <elsie.loh@vgso.vic.gov.au>
cc
bcc

Subject Chiro Board vs. Hooper

History:

📧 This message has been forwarded.

Elsie – I have been working through the files sent to me from Carter Lawyers and it appears we have documents missing.

Is it possible to email all VGSO documents directly to me.

Please prioritise the most recent Hearing documents 27 pages tendered by Mr Freckelton.

If you need to discuss any matters with me regarding this matter please call me direct.

Regards,

Mal

Malcolm R. Hooper
HyperMED Australia - Sports | Spinal | NeuroRecovery
Hyperbaric Oxygenation | Adult & Pediatric Lokomat - Robotic Gait Training With BioFeedback | Mono Rail Walking | Advanced Vibration Training | Neuro Acupuncture | Median Nerve Stimulation | Oxy Sports

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E: info@hypermed.com.au www.hypermed.com.au



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HyperMED Australia

Sports And Wellness
Spinal
Neuro Recovery

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E: info@hypermed.com.au

Hyperbaric Oxygenation | LOKOMAT (Adult And Paediatric Gait Assisted Robotics With Biofeedback) | MonoRail Walking | NeuroAcupuncture | Median Nerve Stimulation | Vibration Training | OxySports | Activity Based Restorative Therapies (ABRT)

Advance Your Health >>