Definition of Assault

(1) A person who strikes, touches, or moves or otherwise applies force of any kind to, the person of another, either directly or indirectly, without the other person's consent, or with the other person's consent if a consent is obtained by fraud, or who by any bodily act or gesture attempts or threatens to apply force of any kind to the person of another without the other person's consent, under such circumstances that the person making the attempt or threat has actually or apparently a present ability to effect the person's purpose, is said to assault that other person, and the act is called assault.

(2) In this section –

'applies force' includes the case of applying heat, light, electrical force, gas, odour, or any other substance or thing whatever if applied in such degree as to cause injury or personal discomfort.

5.157 During the course of his treatment of individuals at the Townsville Mental Health, Berg may have committed an assault in two ways:

- He may have applied force in the sense that he touched persons in circumstances where their consent was obtained by fraud; the fraud being that Berg represented himself as being a qualified psychiatrist when in fact he held no such qualification.
- He may have administered medication in such a way that it may amount to the extended definition of 'applies force' within s245(2) of the *Criminal Code*. It will need further investigation on behalf of the Queensland Police Service in order to establish whether or not Berg administered 'any other substance' that may have caused injury or personal discomfort to any particular patient. If there is evidence of that, then it may be that Berg has committed an assault.

Recommendations with respect to Berg

5.158 Accordingly I recommend that the matters relating to Berg be referred to the Commissioner of the Police Service for investigation of the following possible offences committed by Berg:

- Fraud – s408C *Criminal Code*;
- Forgery and uttering – s 488 *Criminal Code*;
- Attempts to procure unauthorised status – s502 *Criminal Code*;
- Assault – s 245 *Criminal Code*.

Part B: Charters Towers

Charters Towers

5.159 Charters Towers, a town of approximately 10,000 people, lies 135 kilometres south west of Townsville and is 1350 kilometres distant from Brisbane. Once a major gold mining centre, Charters Towers had a population of over

27,000[235] and was the largest inland city in Queensland. Nowadays, the main industries in Charters Towers are mining, beef and tourism.[236]

The Hospital

5.160 The Charters Towers Hospital is the sole public hospital in Charters Towers, although there is also present in the town a tertiary psychiatric facility, the Charters Towers Rehabilitation Centre.[237] The Charters Towers Hospital, a 25 bed facility, provides a range of services to the local community including accident & emergency, a variety of outpatients sessions and support services including pharmacy and radiography. It also provides some specialist services such as obstetrics, a weekly ante-natal session. Visiting surgical and paediatric services are also offered weekly.[238]

5.161 The Charters Towers Hospital is a rural hospital,[239] staffed by general practitioners. The medical staff of a hospital such as the Charters Towers Hospital are best described as rural generalists.[240] Rural generalists are usually general practitioners who have some procedural expertise in fields such as anaesthetics, obstetrics, orthopaedics, general surgery, or a combination of procedural skills. Being by their nature generalist practitioners, such doctors would ordinarily perform low or medium risk procedures within their area of expertise and skill.[241] In a rural hospital such as the Charters Towers Hospital, the Medical Superintendent, or Director of Medical Services (as they are now known), has a clinical workload in addition to his or her administrative responsibilities.[242]

5.162 In 2004, the Charters Towers Hospital had 1522 admissions and provided services to a further 40,892 patients.[243] In 2000, the time of the events subject to examination by the Coroner and under consideration here, the Hospital was staffed by Dr Izak Maree, the Medical Superintendent, Dr David Row, a Senior Medical Officer, and Dr Derek Manderson, a Principal House Officer. Access to specialist support was by telephone to the Townsville Hospital, the nearest tertiary referral hospital.[244]

5.163 The tragedy subject to the Coronial Inquest, and investigation by Queensland Health, surrounded the treatment of a patient by Dr Izak Maree.

---

[235] http://www.queenslandholidays.com.au/townsville/charters_towers.cfm
[236] http://www.queenslandholidays.com.au/townsville/charters_towers.cfm
[237] http://www.health.qld.gov.au/wwwprofiles/charters_ctowers_rc.asp
[238] http://www.health.qld.gov.au/wwwprofiles/charters_ctowers_rc.asp
[239] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p29)
[240] Exhibit 297
[241] Exhibit 297 para 21
[242] Exhibit 56; Exhibit 297 para 11
[243] http://www.health.qld.gov.au/wwwprofiles/charters_ctowers_rc.asp
[244] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p10)

The appointment and employment of Dr Maree

5.164 By the middle of the year 2000, the position of Medical Superintendent at the Charters Towers Hospital had been vacant for some time.[245] The Charters Towers Hospital had been, unsuccessfully, attempting to recruit an Australian trained and registered doctor to the position.[246] In May 2000, an international recruitment firm was engaged, and through this firm Dr Maree became a candidate for the position.[247] Dr Maree was a South African trained doctor who claimed some considerable experience in obstetrics and also experience in anaesthetics.

5.165 The selection panel for the position of Medical Superintendent comprised the outgoing Medical Superintendent, the District Manager and the Human Resources Manager of the Charters Towers Hospital.[248] Having reviewed Dr Maree's resume, the panel conducted a telephone interview of Dr Maree and resolved to offer the position to Dr Maree, subject to checking with his referees.[249] Dr Maree's referees confirmed the experience he claimed in his resume.

5.166 In considering whether or not the appointment of Dr Maree to the position of Medical Superintendent, should have been made, the Coroner relied on evidence given to him by Dr Andrew Johnson, the Executive Director of Medical Services at the Townsville Hospital, who stated that, based on Dr Maree's resume, qualification, and references: 'he would have gained a position in any facility [similar to Charters Towers Hospital] around the country'.[250]

5.167 Dr Maree, as the Medical Superintendent of the Charters Towers Hospital, had both an administrative workload, and a clinical workload. However, his primary role was the provision of clinical services.[251]

5.168 During the months he was employed at the Charters Towers Hospital, Dr Maree treated a variety of patients,[252] performed ward rounds and on-call duties. He also performed procedures in obstetrics[253] and administered anaesthetics,[254] as would be expected in a rural hospital such as Charters

---

[245] According to the Coroners findings, the position had been vacant since sometime in 1999 see: http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p24)
[246] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p24)
[247] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p24)
[248] T3407 L22
[249] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p24)
[250] T3407 L29
[251] Exhibit 56 para 9
[252] Exhibit 56
[253] particularly caesarean sections; see Exhibit 56 para 51
[254] Exhibit 56 para 52

Towers.[255] As the Medical Superintendent, Dr Maree was also the clinical leader of the Charters Towers Hospital.[256]

Dr Maree's clinical privileges

5.169 Dr Maree exercised extensive clinical privileges at the Charters Towers Hospital. During his time as Medical Superintendent he practised in the following areas:

- Obstetrics including caesarean deliveries;[257]
- General surgery, such as tubal ligation;[258]
- Accident and Emergency;[259]
- Anaesthetics;[260] and
- General Medicine.[261]

5.170 Dr Maree was never granted clinical privileges by a credentialing or clinical privileging committee,[262] and exercised what was described by the coroner as 'implied' privileges only. Nor were his credentials examined by an appropriate credentialing and privileging committee.

Ms Sabadina attends the Charters Towers Hospital

5.171 Ms Kathryn Sabadina, mother of two, lived with her parents at Charters Towers.[263] Ms Sadadina and her children had been living in Charters Towers for some time.[264] Ms Sabadina was a loving and dedicated parent to her two children, one of whom required 24 hour care due to a disability. At the time of her death she had become engaged to her long term partner.

5.172 On 13 December 2000, Ms Sabadina attended her local dentist, Dr Lingard, complaining of a toothache. Under a local anaesthetic Dr Lingard, removed the pulp of the offending tooth and applied an antibiotic dressing. Some days later, whilst visiting Townsville, Ms Sabadina's face became swollen and she was in severe pain. Her fiancé contacted Dr Lingard who advised him that Ms Sabadina should see a doctor and obtain some medication. On Saturday 16 December 2000, Dr Lingard received a further call from Ms Sadabina's fiancé who told him that Ms Sabadina was still in severe pain and her face remained

---

[255] Exhibit 56 para 9
[256] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (page 27)
[257] Exhibit 56 para 34
[258] Exhibit 56 para 37
[259] Exhibit 56 para 37
[260] Exhibit 56 para 42, although Dr Maree only performed 4 general anaesthetics
[261] Exhibit 56 para 49
[262] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (page 27)
[263] Exhibit 56 para 58
[264] Exhibit 56 para 58

swollen. She had attended the Townsville Hospital the previous evening and received an injection for the pain. Ms Sabadina and her fiancé agreed to return to Charters Towers and see Dr Lingard. At 3:00pm that day Dr Lingard saw Ms Sabadina and performed about 2 ½ hours of dental work on the offending tooth. Having done all that he believed he could, Dr Lingard prescribed antibiotics.[265]

5.173 On Sunday afternoon, 17 December 2000, Dr Lingard, upon his return from a visit to Townsville, received a message on his answering machine from Ms Sabadina's father. It seemed that Ms Sabadina was in severe pain and had been taken to the Charters Towers Hospital for a pain killing injection. When Dr Lingard next spoke to the family, at about 3:00pm, she was sleeping.[266]

5.174 Dr Lingard then began to make enquiries about the availability of a general anaesthetic as he decided to perform an extraction of the tooth. He contacted Dr Manderson, a Senior Medical Officer, who was on call at the Charters Towers Hospital. Dr Manderson informed Dr Lingard that Dr Maree was on call after 5:00pm and he might be available to administer a general anaesthetic. Dr Lingard then contacted Dr Maree and explained the situation, as well as giving Dr Maree some of Ms Sabadina's clinical history.[267]

5.175 Dr Lingard saw Ms Sabadina at 4:00pm and proposed that the infected tooth be removed under a general anaesthetic. Ms Sabadina attended the Hospital at 5:00pm and was extremely anxious about the impending operation.[268] At 5:40pm Dr Maree began administering the anaesthetic and almost immediately things began going horribly wrong. Her blood oxygen level began to plummet,[269] her heart rate dropped to 40 beats per minute, and Dr Maree had difficulty in ventilating her.[270] Within minutes Ms Sabadina had no measurable pulse or blood pressure. Dr Maree initially suspected that the nasal tube that delivered the anaesthetic gas to Ms Sabadina's lungs may have found its way into her stomach, a common enough complication. However, when satisfied that the tube was in order, he then queried the blood and oxygen readings on the monitor of the pulse oximeter a machine used to measure pulse, blood pressure and blood oxygen levels. He called for another portable pulse oximeter to be brought into the operating theatre in case the original machine was faulty. At 5:45pm Dr Maree decided to abort the anaesthetic. At 5:50pm other nurses were summoned to the operating

---

[265] Exhibit 56 para 58
[266] Exhibit 56 para 58
[267] Exhibit 56 para 59
[268] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p7)
[269] it dropped from 97% to 64% see: http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p8)
[270] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p7)

theatre to assist, and over the next 10 minutes Ms Sabadina received doses of adrenaline and hydrocortisone.[271]

5.176 Just before 6:15pm Dr Manderson was called and he ran to the operating theatre to provide what assistance he could. Upon his arrival he suggested that Dr Simpson, a senior anaesthetist at the Townsville Hospital, be contacted for advice. After being brought up to speed with events Dr Simpson made a number of suggestions all of which were acted upon by Dr Maree and Dr Manderson, unfortunately to no avail.[272]

5.177 Shortly after 6:15pm Ms Sabadina's heart stopped beating. The medical team started cardio-pulmonary resuscitation. At 7:20pm the doctors and nurses who had been trying to save her life, ceased their efforts and Ms Sabadina passed away.[273]

5.178 The death was immediately notified to the Queensland Police Service and an investigation ensued.[274]

The complaint to Queensland Health

5.179 On the next day,[275] Dr Row handed to the District Manager, Mr Peter Sladden, a letter in which he expressed his serious concerns about the clinical competence of Dr Maree.[276] Dr Row provided a copy of his letter to the Medical Board.[277] The gravity of Dr Row's complaint was such that Mr Sladden immediately sought advice from the zonal manager of the Northern Zone, Mr Terry Mehan.[278]

5.180 On 20 December 2000, two days after receiving Dr Row's complaint, Mr Mehan appointed Dr Andrew Johnson, the Executive Director of Medical Services at the Townsville Hospital and Dr David Farlow, the Director of Medical Services at the Proserpine Hospital to investigate the matters raised in the complaint.[279]

The Queensland Health Investigation

5.181 The Queensland Health Investigation commenced on 20 December 2000 and concluded in February 2001.[280] Dr Johnson and Dr Farlow determined that 11 separate issues were raised in Dr Row's letter of complaint. Dr Johnson and

---

[271] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p9)
[272] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p9)
[273] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p10)
[274] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p10)
[275] 18 December 2005
[276] Exhibit 56 para 4
[277] Exhibit 56 para 4
[278] Exhibit 56 para 4
[279] Exhibit 56
[280] Exhibit 56 para 4

Dr Farlow interviewed 37 witnesses, including several witnesses who gave expert opinions. Dr Johnson and Dr Farlow thoroughly investigated all of the complaints and concerns in Dr Row's letter, drawing various conclusions with respect to the 11 issues.[281] Of the allegations, Dr Johnson and Dr Farlow considered that there was sufficient evidence to support an adverse finding for five of the allegations made by Dr Row. Of the other six they determined that there was insufficient evidence to draw any adverse conclusion with respect to the conduct of Dr Maree.

5.182 The findings of Dr Johnson and Dr Farlow that were of interest to the Commission are that:

- Dr Maree was not entitled to the clinical privileges that he had been exercising; and
- Dr Maree may have acted incompetently with respect to the death of Ms Sabadina;[282]

The other matters canvassed in the report of Dr Johnson and Dr Farlow will not be examined.

The Investigators recommendations

5.183 Following their investigation Dr Johnson and Dr Farlow made a number of recommendations including:[283]

- That the death of Ms Sabadina be referred to the Coroner;
- That their report be provided to the Medical Board of Queensland for further action as the appropriate regulatory body; and
- That the process for credentialing and privileging process in the Northern Zone be reviewed with consideration being given to centralising the privileging and credentialing process in the Northern Zone, particularly for senior medical staff.

5.184 Queensland Health's investigation and response to the complaint was prompt and thorough.

The Medical Board's action

5.185 The Medical Board received Dr Row's letter of complaint shortly after 17 December 2000.[284] On 19 December 2000, the Medical Board communicated with Queensland Health and was advised that Queensland Health was

[281] Exhibit 56 para 64
[282] Exhibit 56 para 64
[283] Exhibit 56 paras 66, 67
[284] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p27)

investigating the complaints. The Board was also informed that Dr Maree had been suspended from practice during that investigation.[285]

5.186 The Medical Board received a copy of the investigation report of Dr Johnson and Dr Farlow on 23 February 2001. On 22 March 2001, the Board wrote to Dr Maree asking him to show cause why his registration should not be cancelled. On 27 March 2001, Dr Maree advised the Medical Board that he intended to resign from Queensland Health and he did not intend to practise medicine in Australia again.[286] Dr Maree resigned effective 17 April 2001. On 27 November 2001 for reasons discussed by the Coroner (considered below) the Medical Board decided to discontinue its investigation following Dr Maree's departure.[287]

The Coronial investigation and inquest

5.187 The Queensland Police Service completed its investigation in late 2003, and the Police Report was forwarded to the Coroner on 25 November 2003.[288]

5.188 Following five days of hearings at which 49 exhibits were tendered, the Coroner delivered his findings of 32 pages on 24 August 2005. The Medical Board and Dr Maree were represented at the Inquest. I have read the Coroner's findings and I adopt them unreservedly.

The Coroner's findings

5.189 The Coroner found that Ms Sabadina had died as a result of anaphylaxis.[289]

5.190 The Coroner found that Dr Maree did not take reasonable care and did not exercise reasonable skill when administering the anaesthetic for the following reasons:

> '…
>
> - He did not perform a sufficiently comprehensive examination of the patient before administering the anaesthetic drugs.
> - It seems he failed to ensure the patient had sufficient fluids from the outset, or as soon as it became apparent that anaphylaxis may be occurring. Dr Mackay [an expert witness before the Inquest] said the patient would have needed many litres of intravenous fluid as soon as possible.

---

[285] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p4)
[286] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p28)
[287] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p28)
[288] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf p4, the Coroner did not investigate the delay in the referral and there is no evidence
[289] Anaphylaxis is a sudden, severe, potentially fatal, systemic allergic reaction that can involve various areas of the body (such as the skin, respiratory tract, gastrointestinal tract, and cardiovascular system). Symptoms occur within minutes to two hours after contact with the allergy-causing substance, but in rare instances may occur up to four hours later. Anaphylactic reactions can be mild to life-threatening. (source: http://www.foodallergy.org/anaphylaxis.html)

- He failed to regularly monitor the patient's blood pressure.
- He failed to give staff sufficiently clear and definite instructions concerning the quantities of the drugs when they were suddenly required to prepare them.
- He did not know how to monitor the level of carbon dioxide in the exhaled breath of the patient. Difficulties he had experienced previously when administering anaesthetic with this equipment should have alerted him to his lack of a complete understanding of its operation and the dangers that posed.
- He did not recognise that he could immediately test the accuracy of the pulse oximeter readings indicating that an emergency situation was developing by merely clipping the lead to his finger or that of a nurse and instead wasted time in sending for another.
- He apparently did not recognise the symptoms of anaphylaxis as soon as could reasonably be expected and therefore failed to respond as quickly as could reasonably be expected.
- He administered Vecuronium, a relatively long lasting paralysing drug, when he could not have been sure that he had established an airway.
- He administered too small an amount of that drug to have any significant effect on the patient.
- Almost immediately after administering Vecuronium, he administered neostigmine and atropine to counteract the effects of the Vecuronium apparently unaware or not sufficiently caring that the countervailing properties of the neostigmine would not be effective for 20 to 25 minutes - far too late to assist the patient.
- Not only was the neostigmine unlikely to be of any benefit, it was a dangerous drug to administer to a patent suffering a low heart rate and falling blood pressure, even when accompanied by atropine.
- He failed to administer adrenaline sufficiently quickly to respond to the emergency.
- When it should have been apparent that the patient's low blood pressure and pulse rate would make the intravenous administration of adrenaline ineffective, he failed to take adequate steps to respond to this such as cardiac massage to ensure the adrenaline was circulated to the heart and bronchi. As Dr Mackay put it, 'you don't wait for the monitor to say asystole.'[290]
- He, without good reasons, disconnected the intubation tube from the oxygen supply and sought to ventilate the patient with his own expired breath containing only 14% oxygen when the patient desperately needed 100% oxygen.
- He did not, with sufficient urgency, summon assistance and instead waited nearly 30 minutes to call in another doctor whom he knew was readily available. The expert witnesses testified that Dr Maree should have done this as soon as it became apparent that something was amiss.
- After attempts to resuscitate the patient were abandoned, Dr Maree failed to download from the anaesthetic machine the records that would have

[290] Asystole is a form of cardiac arrest in which the hearat stops beating and there is no electrical activity in the heart. The heart is at a total standstill. [source: www.medterms.com]

> enabled a more accurate analysis of what had transpired during the procedure. Further, despite being advised to do so, he failed to ensure that a post mortem sample of blood was promptly taken to enable mast cell tryptase levels to be measured.'[291]

5.191 While the Coroner found that Dr Maree did not exercise reasonable care and skill, he also did not consider that the evidence necessitated any criminal charges being laid against Dr Maree.

The Coroners findings concerning Dr Maree's appointment

5.192 When considering the appointment and employment of Dr Maree, the Coroner also identified serious shortcomings at four critical times which might otherwise have served as some guarantee of Dr Maree's clinical competence. They were the appointment of Dr Maree, his registration by the Medical Board of Queensland, his orientation at the Townsville General Hospital, and his credentialing and privileging at the Charters Towers Hospital. I deal with each in turn below.

5.193 The Coroner found that the process of appointing Dr Maree was flawed because:

- The selection panel failed to apply appropriate policies concerning appointment on merit;
- The selection panel failed to keep documentation that explained the decision process;
- All the panel did was ask a few general question about Dr Maree's knowledge and experience and recorded their deliberations on a page and a half of notes.
- These shortcomings made it difficult for the request to assess whether an appropriate merit selection process had been followed.

The Coroners findings on Dr Maree's registration

5.194 The Coroner considered that Dr Maree's registration by the Medical Board represented an opportunity to identify his potential failings. The Coroner's comments regarding the Board's processes:

> Because he had secured a position with Queensland Health, the Medical Board granted Dr Maree conditional registration. All that [the Board] required of him was proof that he had such qualifications as would entitle him to registration and to be satisfied that he complied with the provisions of the Medical Act 1939. The Board satisfied itself of these matters by having Dr Maree interviewed by a senior doctor from the Townsville Hospital who then wrote to the Board certifying that Dr Maree met these conditions for registration. It seems this

[291] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf although the Coroner did state that this was not deliberate (p18 - 20)

> process did not involve any assessment of Dr Maree's suitability for the position he was about to fill nor any review of his level of competence[292]

5.195 Dr Maree was granted conditional registration under s.17C(1)(d) of the *Medical Act 1939.* The Medical Board's file reveals that Dr Maree was registered as an area of need registrant under s.17C(1)(d) of that Act. That section provides:

> 'A person may be registered for the purpose of enabling an unmet area of need…to be met if the Board is satisfied that the person has suitable qualifications and experience to practise medicine in the area of need.' (emphasis added)

5.196 That, in my view, requires the Medical Board to independently satisfy itself of Dr Maree's qualifications and experience. It is clear from the Coroner's findings that the Medical Board relied on an agent of Queensland Health, the prospective employer, to investigate Dr Maree's experience and qualifications. Such a delegation of responsibility was, in my view, inappropriate.

Orientation and induction

5.197 What was described as an induction, in fact, fell far short of what was appropriate and necessary particularly given that Dr Maree was trained in South Africa.

5.198 Dr Maree had an orientation and induction at the Townsville General Hospital in early September 2000.[293] During the week that was his induction, Dr Maree was introduced to a few people from the Townsville General Hospital with whom he could expect to be in contact during the course of his duties at the Charters Towers Hospital. Notwithstanding that Dr Maree was to have a clinical role in anaesthetics at the Charters Towers Hospital, he did not attend the anaesthetic department at the Townsville General Hospital. He did not have any discussions with any other anaesthetists with respect to the types of equipment that he would be using at Charters Towers Hospital nor was any assessment of his clinical skills conducted. The induction represented another lost opportunity to identify Dr Maree's level of clinical competence, and address any shortcomings that may have been identified.

Credentialing and privileging

5.199 Finally, had Dr Maree been appropriately credentialed and privileged then that may have alerted his superiors of his limitations.[294] Dr Maree was never subjected to any process of credentialing and privileging. Rather he operated with what the Coroner described as 'implied privileges'. Dr Maree exercised extensive clinical privileges in general medicine, general practice surgery,

---

[292] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p26)
[293] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p26)
[294] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p26)

anaesthetics and obstetrics. It seems that Dr Maree exercised those privileges by virtue of his position as Director of Medical Services. The Coroner found that with respect to the exercise of 'implied privileges' by Dr Maree:

> That may have been acceptable had Dr Maree been a junior doctor working under the close supervision of a more experienced practitioner. It was obviously problematic when he was the 'boss' of the hospital and expected to give clinical leadership to the two other doctors employed there.[295]

5.200 Dr Johnson and Dr Farlow, in their report recommended that due to the fact the Medical Superintendent is the key position for ensuring quality clinical practice, especially in a rural facility:

> The appointment process and granting of clinical privileges must be part of the one process to ensure that the appointed practitioner is capable of exercising the responsibilities incumbent in the role. [296]

5.201 Dr Farlow gave evidence about rural credentialing and privileging in the Northern Zone. Credentials represent the formal qualifications, training and clinical competence of a medical practitioner.[297] As a medical practitioner, the Northern Zone rural credentialing and privileging committee was to assess Dr Maree's credentials and award him clinical privileges.[298] However, Dr Maree did not apply for privileges until 2 December 2000, shortly before Ms Sabadina's death.

The Medical Board's attitude to an investigation

5.202 The Medical Board chose not to continue its investigation as Dr Maree had not renewed his registration and had returned to his home country. The Coroner also addressed the Medical Board's subsequent approach to an investigation into allegations against Dr Maree:

> [The Board] told the inquest the decision was based on Dr Maree having left the country and was influenced by the fact that it had a large number of investigations to deal with at the time. [The Board] was waiting for other inquiries such as this inquest to be completed before taking action, to avoid parallel inquiries occurring.
>
> …
>
> it was argued [in the Board's submissions to the Inquest] that no good purpose would have been served by the Board taking further action in this case as the most the Board could have done was de-register Dr Maree and this had already happened as a result of his resignation. Further, they suggest that no disciplinary prosecution in the Health Practitioners Tribunal would have been likely to succeed in the absence of criminal negligence.[299]

---

[295] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p27)
[296] Exhibit 56 page 65
[297] Exhibit 257 para 33
[298] Exhibit 257 para 32
[299] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p28)

5.203 In response to those submissions the Coroner found that:

> …the Board decided to take no further action in relation to [the complaints]. In my view that was an inappropriate response to the serious allegations contained in the report. The functions of a coronial inquiry are not coterminous with the Board's responsibility to uphold the standards of practice within the health professions and to maintain public confidence. For example, in this case there were 11 allegations of professional misconduct raised against Dr Maree and only one of those was the subject of this inquest. Nor is it appropriate for the Board to postpone taking action until other authorities that may consider some aspects of a practitioner's performance have done so. In my view, the Board should act as quickly as possible to determine matters within its special area of responsibility. It is primarily responsible for the maintenance of public confidence and standards within the profession in Queensland and it is inappropriate for it to forbear from doing its duty in this regard merely because some other body may take some action or the practitioner whose conduct is in question leaves the State.[300]

5.204 The conclusions of the Coroner are undoubtedly correct. It is inappropriate for the Medical Board to refrain from performing its statutory function simply because some other body may also be investigating the matter. Further the statement that the Board had a large number of other complaints to investigate at the time is also unsatisfactory for reasons discussed elsewhere in this report. Significant delay in investigating complaints such as those made against Dr Maree is unacceptable for both the patients and the practitioner concerned.

Response by the Northern Zone and the Townsville Hospital

5.205 Since the death of Ms Sabadina, there have been significant changes in the employment, credentialing and privileging of overseas trained doctors in the Northern Zone. Those changes revolve around an increased role for the Townsville Hospital in the orientation and supervision of overseas trained doctors recruited to work in the Northern Zone. Those changes are detailed above as they largely relate to the role of the Townsville Hospital as the tertiary referral hospital in the Northern Zone.

The result

5.206 The events that occurred in Charters Towers in 2000 are indicative of broad failings of the system of registration, supervision, and complaints management by the Medical Board of Queensland. The events occurred some years before the employment of Dr Patel at the Bundaberg Base Hospital. In a parallel of the events that occurred three years later in Bundaberg, an overseas trained doctor was placed in a position where he was the senior practitioner with no one capable of providing any meaningful supervision. The Medical Board

[300] http://www.justice.qld.gov.au/courts/coroner/findings/Sabadina-findings%20final.pdf (p31)

relied upon Queensland Health in its recruitment process to verify Dr Maree's qualifications and experience, performing no independent assessment. Dr Maree was not credentialed or awarded clinical privileges, yet was allowed to practise unsupervised. Although Queensland Health, at least in the Northern Zone, appears to have taken steps to address the issues, the events in Bundaberg demonstrate that the fundamental failings in the system remain.

Part C - The Rockhampton Hospital

The City of Rockhampton

5.207 Rockhampton, a city of 60,000, is approximately 640 kilometers north of Brisbane.[301] The total population of Rockhampton and its surrounding districts is approximately 120,000.[302] Approximately 29.5% of the population is aged over 50 years, slightly higher than the state average of 28.7%.[303] The indigenous population accounts for approximately 5.4% of the population, above the state average of 3.1%.[304] In general, those two factors often result in a higher demand being placed on medical services.

5.208 Settled on the Fitzroy River in 1855, as a convenient port and service centre for the grazing industry, Rockhampton grew significantly with the discovery of gold in Canoona to the north and later in nearby Mount Morgan.[305] Proclaimed as a city in 1902,[306] the main industries in Rockhampton and the surrounding region are farming, grazing, and meat processing. The city also acts as a service centre for the mining industry located in the Bowen Basin to the west.

5.209 Rockhampton has three hospitals:

- The Rockhampton Hospital, a Queensland Health facility;
- The Mater Private Hospital - Rockhampton, a 125 bed facility;
- The Hillcrest Private Hospital, a 60 bed facility.

There is also a 25 bed Mater Private Hospital located at nearby Yepoon.[307]

The Rockhampton Health Service District

5.210 The Rockhampton Health Service District falls within Queensland Health's Central Zone and covers the Shires of Fitzroy, Livingstone, Mount Morgan, the

---

301 http://en.wikipedia.org/wiki/Rockhampton%2C_Queensland
302 http://www.rockhampton.qld.gov.au/articledetail.asp
303 http://www.health.qld.gov.au/wwwprofiles/rocky.asp
304 http://www.health.qld.gov.au/wwwprofiles/rocky.asp
305 http://en.wikipedia.org/wiki/Rockhampton%2C_Queensland
306 http://en.wikipedia.org/wiki/Rockhampton%2C_Queensland
307 http://www.rockhampton.qld.gov.au/menuview.asp?item=8