Bundaberg Hospital *Commission of Inquiry*

STATEMENT OF KENNETH DOUGLAS WHELAN

I, Kenneth Douglas Whelan, District Manager, of an address known to the Commission make oath and states:

1. I have previously provided a statement to the Commission. That statement is dated 14 July 2005.

Bureaucracy at Queensland Health

2. As I have outlined in my earlier statement, I have worked in Health Care in New Zealand. When I started working for Queensland Health I was not familiar with working within a large bureaucracy.

3. In New Zealand there is a much greater level of autonomy for a person in the equivalent position as a District Manager. In New Zealand the power to make decisions rests with the District Manager, the other side of that equation is that the District Manager is accountable for decisions.

4. I have found the centralized decision making system at Queensland Health to be very frustrating particularly the fact that Central Office has numerous divisions. The structure makes decision-making slow and can often cause great frustration within the Districts.

5. This also leads to conflict within the Districts. As an example, clinical issues are raised by the clinical staff and taken to the District Management. District Management may have to refer matters to Brisbane Corporate Office and as a result the decision. At times, before a decision can be made in Brisbane it appears the issue is passed around several departments for comment.

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6. This can result in conflict between the District Management and the clinical staff of the Hospital. The clinical staff want their issues to be addressed quickly to meet clinical need. When a delay occurs what can happen is that the clinical staff vent their frustrations on the District Management team. That can lead to problems with the relationship between the District Management and the clinical staff.

Ingham Hospital Redevelopment

7. An example of the frustrations that I have felt with Corporate Office is the current redevelopment of the Ingham Hospital. As the bureaucracy becomes more disjointed from the community it becomes more difficult to provide an appropriate health care service that is relevant to the community's needs.

8. I have made an attempt to heavily involve the local community in the Ingham Hospital redevelopment. I have attempted to consult widely in the community to discuss the health care needs of the local community. My focus has been on looking at the health care needs of the community. I have deliberately avoided discussing issues such as the number of beds in the Hospital.

9. My reasons for doing this is based on my experiences in New Zealand where if the health care model is focused on the primary health care in the community and the needs of that community, then the size of the Hospital can be more accurately determined. It is possible through the provision of primary health care to reduce acute admissions to Hospital and that, in my view, is a good thing. That is why the focus has been on health service provision rather than the number of beds in the Ingham Hospital.

10. I have attempted to involve all of the interest groups in the community including the local GP's, nursing homes, members of the council and consumers. Over time I had built up a good relationship with those groups.

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11. Initially the community members were skeptical as there was a perception that Queensland Health was going to reduce the size of the Hospital and build a similar Hospital to what had been built in Ayr. However over the previous 12 months I had managed to convince the local community to focus on the broader issues not just the number of beds in the Hospital. However, I acknowledge that the size of the Hospital and the number of beds is an important issue for the community. Some felt that a Hospital with 40 – 50 beds was appropriate. I was trying to convince them that the size of the Hospital is not the only thing to consider in a redevelopment. Rather by focusing on the health care needs of the community and looking at all of the health care providers both public and private then the Ingham Hospital could be redeveloped in accordance with the health care need.

12. I feel that it is important to take the time to consider the health needs of the community and provide an appropriate health care solution as part of ensuring that the Hospital redevelopment provided a health care service appropriate for the community.

13. When Corporate Office became more involved in the redevelopment project through the Project Services Unit, I had asked them not to discuss the number of beds when they met with the community. However when representatives from Project Services met with the community members the first thing discussed was the number of beds in the Hospital and it was suggested that 28 beds was appropriate. Some members in the community were angered at what they saw was a downgrading of their local Hospital.

14. That was frustrating for me and I felt that it undermined my credibility within the local community. However I have since discussed the issues with Project Services specifically with the Head of the Capital Works division for North Queensland that there needs to be a consistent message to the community from Queensland Health. The head of Capital Works North Queensland has been and remains very supportive of my process.

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15. It also must be recognized that the redevelopment of the Ingham Hospital was an election commitment by the Government. The Project Services Division was under pressure to ensure that that election commitment was met and that the redevelopment was started before the next election. Project Services were faced with tight timelines for the redevelopment to commence.

16. I had sought advice from the Ministers Office about the redevelopment. Mr Michael Fietchner a ministerial advisor told me words to the effect that "provided that construction had started the Minister would be satisfied".

Establishment of a GP clinic at Ingham Hospital

17. Earlier this year there was a situation where there was a dispute between the six General Practitioners who practice in Ingham. I have no knowledge of the nature of that dispute. However what transpired was that five of the General Practitioners were evicted from the local practice. Those practitioners no longer had any rooms from which to conduct their practice. I was concerned that there was a risk that the community of Ingham might lose the services of five local doctors.

18. At the time there was a vacant ward at the Ingham hospital. The GPs approached me about assistance in providing premises for them to practice. I had previously considered establishing a multipurpose medical center on the Ingham Hospital and this was an opportunity to establish that practice. I then arranged for those GPs to lease part of the Hospital on a commercial basis for them to set up a general practice. This was done in accordance with Queensland Health policy and practices.

19. I felt that the arrangement was in the public interest as the community would continue to have access to GP's. It also made it possible to develop an ongoing relationship with the local GPs that may lead to the provision of services to the Hospital in the future. I also felt that the Hospital should work with the private sector where possible to ensure a continuity of services to

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the community. Again it was an example of the need to focus on the total health solution.

20. The remaining GP then complained to Queensland Health about the arrangement suggesting that there was a lack of transparency and that somehow I had negotiated a special deal that was somehow detrimental to his practice. I was investigated by the Audit and Operational Review Branch of Queensland Health. That investigation was stressful as I believed that I had done nothing wrong. However the investigation cleared me of any wrongdoing. Annexed to my statement and marked with the letters "KDW-1" is a copy of the investigation report.

Patient Safety

21. The Townsville Hospital has implemented a patient safety program based on Veterans Health Authority in the United States of America. This process is now being adopted by Queensland Health. Dr Andrew Johnson is the person who leads the patient safety system in the Hospital.

22. In my view there are some issues in Health Care where there is a need for central leadership. Patient Safety is one of those matters. However by Central leadership I do not mean central management.

23. The implementation of the Patient Safety Centre at Queensland Health has, in my opinion, been a good thing. It is an example of where Queensland Health has listened to the concerns of the community and the clinicians.

24. However the patient safety program has also been frustrating as there has been a large delay in the provision of funding to the Patient Safety Centre for the development of the program.

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Measured Quality

25. The Measured Quality Report is a system where Queensland Health collects a range of data and uses that data to analyse quality assurance issues across various Hospitals. I personally believe that the measured quality program is a waste of time and resources.

26. My reasons for this is that, in my experience, the Measured Quality Report relies on data that is up to 2 years out of date. I do not believe that sensible clinical decisions can be made based on what was occurring in a hospital up to 2 years ago. I also find it very difficult to get clinicians interested in data that is up to 2 years old. Clinicians are used to dealing with scientific date but they also require data to be relevant and accurate.

27. To effectively engage clinicians it is important that they are presented with relevant facts. I feel that because the measured quality data is so out of data most clinicians consider it of little value.

28. I prefer dealing with the Root Cause Analysis process and mechanisms such as the Morbidity and Mortality meetings as a means to resolve current issues within the Hospital. My principal reason for this is that those mechanisms deal in real time with current information about what is going on in the Hospital now.

29. I have told Queensland Health that I am not willing to participate in the Measured Quality Program in the future.

30. I should also point out that I believe that Quality Assurance is very important and patient safety should, and must, be addressed but I don't see any point in making decisions based on what was happening in the Hospital 2 years ago.

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Vincent Berg

31. I started at the Hospital in October 2002. In November 2002 the Executive Director of Medical Services, Dr Johnson came to me with an issue about a former employee by the name of Vincent Berg.

32. Dr Johnson came to me with concerns that he had received about Vincent Berg's qualifications. Dr Johnson had received information that Vincent Berg had no medical qualifications and his qualifications were in fact forgeries. Dr Johnson also informed me that his information was that the Medical Board of Queensland had been aware of this issue since January 2002 and had not informed the Hospital about this fact.

33. Dr Johnson was angry and upset, his concern being that as Vincent Berg was not a doctor then there was a real risk that patients had been put at risk. Further delay in being informed by the Medical Board put those patients at further risk.

34. On 6 December 2002 I wrote to the Medical Board of Queensland expressing my concerns about this situation and seeking clarification about whether the Medical Board intended to prosecute Mr Berg. Annexed to my statement and marked with the letters "KDW-2" is a copy of that letter.

35. On 28 January 2003 I received a response from the Medical Board where they confirmed that they had not notified the Hospital when they learned that his Mr Berg's qualifications were forged. Annexed to my statement and marked with the letters "KDW-3" is a copy of the letter from the Medical Board.

36. Dr John Allan the Director of the Integrated Mental Health Unit then performed an audit of all of the charts of patients seen by Dr Berg. In conjunction with Dr Johnson, Dr Allan prepared a communications strategy. I received a copy of the Audit Report and strategy in an email dated 22

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January 2003. That email was directed to Terry Mehan the Zonal Manager and a copy was also sent to me.

37. Dr Allan and Dr Johnson intended that the matter should be made public and that a letter should be written to the patients so that the situation could be explained to those patients. They also proposed releasing that information to the media. That information was included in the communications strategy that was briefed to the Director-General through the Zonal Manager, Terry Mehan, and the General Manager of Health Services, Dr Steve Buckland.

38. Dr Johnson and Dr Allan were also concerned about their personal safety when the matter was made public. In that context I contacted the local Police. I spoke to Christopher Reeves who was the Townsville District Officer for the Queensland Police Service. I asked Mr Reeves to make some enquires about where Mr Berg was. I also raised the issue of whether fraud had been committed. At that time I had only been in Australia for 6 weeks and was very unfamiliar with the legal situation and was seeking some guidance from the Police Service.

39. On 24 January 2003 I sent an email to Mr Reeves seeking some guidance on the legal situation. On 24 January 2003 I received a response from Mr Reeves that suggested that there may have been official misconduct by Dr Berg and that he was of the view that it should be reported to the CMC. Annexed to my statement and marked with the letters "KDW-4" is a copy of those emails.

40. On 23 January 2003 I sent an email to Terry Mehan summarizing the advice of Mr Reeves and seeking further guidance on how to deal with the situation. Annexed to my statement and marked with the letters "KDW-5" is a copy of that email.

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41. I forwarded that email to Terry Mehan the Zonal Manager on 24 January 2004. Annexed to my statement and marked with the letters "KDW-6" is a copy of that email.

42. On 24 January 2003 at 3:42pm Terry Mehan then forwarded a copy of my email to Dr Steve Buckland. Annexed to my statement and marked with the letters "KDW-7" is a copy of that email.

43. On 24 January 2003 at 3:51 pm Dr Buckland sent an email to Terry Mehan stating that in his opinion there was no official misconduct and no need to report the matter to the CMC. At 4:27pm that day Mr Mehan sent to me a copy of Dr Buckland's email. Annexed to my statement and marked with the letters "KDW-8" is a copy of that email.

44. By that time Dr Buckland had also received the briefing note that had been directed to the Director-General attaching the communications plan that had been developed by Dr Johnson and Dr Allan. I took the comment by Dr Buckland about the "inability of Dr Johnson et al to brief properly" to be a reference to the briefing note and communications strategy prepared by Dr Johnson.

45. From that email I was instructed to take no further action to refer the matter to the CMC.

46. I believe that I subsequently spoke to Mr Reeves seeking clarification about the fraud issue. Annexed to my statement and marked with the letter "KDW-9" is a copy of a response from Mr Reeves to my enquiry. I do not recall when I received that email.

47. Those emails were archived on my email system. It was not until recently when, through Corporate Office the Hospital received a request from the Courier Mail regarding Dr Berg, I searched my email account and located the above emails. I was then informed that all emails should be printed out and

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placed in the hard copy file. I felt that one of the emails was very derogatory to Dr Johnson so I placed the series of emails in a sealed envelope marked "not to be opened without the authority of the District Manager". I wanted to ensure that the criticism of Dr Johnson was not publicly known in the Hospital as I felt that it was unjustified. That envelope remained sealed until opened by officers of the Bundaberg Hospital Commission of Inquiry. Annexed to my statement and marked with the letters "KDW-10" is a copy of that envelope.

48. To my knowledge, the media was never contacted about this situation. I also believe that the patients that may have been treated by Dr Berg were never specifically told about the situation, although I understand that all of them have been reviewed and had their treatment reviewed by the mental health unit staff.

Dr Don Myers

49. I was not specifically involved in the recruitment of Dr Myers. I did sign off on his appointment letter as I have the appropriate authority to do so. I also signed off on his area of need applications. The process for recruitment of senior medical staff is that the Directors of the Clinical Institutes conduct recruitment and selection with the assistance to the EDMS.

50. The Hospital has been attempting to recruit a third neurosurgeon for some time. The hospital currently has Dr Reno Rossato who is a staff neurosurgeon and Dr Eric Guazzo who is a VMO neurosurgeon. Dr Rossato is also the Clinical Director of the Institute of Surgery.

51. Dr Rossato had been involved in attempting to recruit Dr Myers into the Hospital as a third neurosurgeon. However he could not take up the appointment for family reasons and did not join the Hospital as a Staff Specialist.

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52. Dr Rossato arranged for Dr Myers to come on board as a locum neurosurgeon and this was an opportunity for us to have a good look at Dr Myers as well as an opportunity for him to experience the Hospital.

53. Ordinarily when the Hospital recruits from overseas the goal is to bring a doctor in as a Staff Specialist. This requires that they achieve either Deemed Specialist status under the Area of Need Program. This is an 8 week process where the relevant college examines the doctors credentials to determine whether he or she can deemed a specialist by virtue of prior training and experience.

54. Alternatively we seek full specialist status. That is a 12 week process where the relevant college considers whether prior training and experience will allow the applicant full recognition as a specialist.

55. Given the length of time that these processes take for locums it is often not possible to achieve Deemed Specialist status or full specialist status as the time frame to achieve that status may be longer than the period of the locum. In this case it was decided to bring Dr Myers in as a Senior Medical Officer (SMO). However as an SMO is was necessary that Dr Myers have some degree of supervision.

56. Dr Johnson approached me in June 2005 as he had some concerns about the process of appointment of Dr Myers. Dr Johnson had concerns about the process and the range of neurosurgery that Dr Myers had been exposed to given his recent practice in the Virgin Islands.

57. Dr Johnson sent me a letter listing his concerns on 24 June 2004. Upon reading that letter I wrote on the letter that Dr Myers was not to operate unless supervised by Dr Rossato or Dr Guazzo. I felt that it was necessary to have some assessment of him before allowing him to operate independently. Annexed to my statement and marked with the letters "KDW-11" is a copy of that letter. That instruction continues to this day and to my

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knowledge Dr Myers has not operated independently during his time at the Townsville Hospital.

58. I am aware that Dr Guazzo had some discussion with Dr Johnson about this situation and there was correspondence between them.

Resignation of Dr Guazzo

59. Eric Guazzo has been a VMO neurosurgeon at the Townsville Hospital for some years. Last year he resigned from his position as a VMO over a number of issues including workloads and the amount of "on-call" he was performing.

60. Dr Guazzo also felt that he was not adequately consulted with the operation of neurosurgery at the Townsville Hospital. He felt that he was being kept out of the loop regarding the operation of the unit, the purchasing of equipment and the staffing of the unit.

61. I am aware that Dr Johnson has been having on-going meetings with Dr Guazzo about some of these issues and Dr Guazzo has returned to the Hospital as a VMO.

62. I believe that a third neurosurgeon, either as a Staff Specialist of a VMO, would assist in reducing the workload within the neurosurgery unit, particularly when there are holidays and study leave being taken.

63. The Hospital's goal is to recruit a third neurosurgeon to the region, as I believe that there is sufficient work available to support that number.

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Visiting Medical Officers

64. The Townsville Hospital encourages VMO's to work at the Hospital, however there are some difficulties in making suitable arrangements to accommodate VMO's on occasion.

65. I am firmly of the view that there needs to be greater collaboration between the private sector and the public sector in Townsville. The use of VMO's allows collaboration with the private sector to a certain extent.

66. However using VMO's is a balancing act and I recognize that VMO's often have extremely busy private practices. I also recognize that to a certain extent the Hospital needs VMO's more than VMO's need the Hospital.

67. I am also aware that when VMO's are at the Hospital they still have to pay the fixed costs associated with their private practices.

68. It is also important to realize that the Hospital cannot always accommodate every requirement of a VMO and there needs to be some flexibility in the relationship for it to work. VMO's are only available on limited days and it may be that accommodating a VMO's request to perform surgery on a particular day may not be practicable from the Hospital's point of view.

Staff Specialists and attracting Doctors to Rural Areas.

69. The Townsville Health Service District is currently short of more than 20 staff specialists across a range of areas. Attracting doctors to North Queensland in particular is a big issue.

70. I am aware that the salary of doctors in Queensland is not competitive with that in other States. I know that in New Zealand staff specialists are paid more than in Queensland. However pay and conditions are not the only factor.

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71.

72. There is currently a significant shortage of doctors in Australia and until more medical graduates are produced and those graduates go on to become specialists those problems are going to continue.

73. Until that occurs Queensland is reliant on overseas trained doctors. There are many excellent overseas trained doctors in the Townsville Hospital and they perform a good job.

74. I have concerns, however, that if Queensland makes the process of recruitment complex with increased red tape then that will discourage doctors from coming to Queensland. As Queensland is already unattractive due to the relative remuneration, then making it harder to have qualifications recognized only adds to the problem of not being able to attract doctors to Queensland and rural areas.

75. I recognize the importance of ensuring appropriate checks on credentials and qualifications but wish to draw the Commission's attention to the fact that there are other matters that need to be considered. I fear that the process may become too complicated and bureaucratic and will deter quality overseas trained doctors from coming to Queensland to practice medicine.

All the facts and circumstances above stated are within my own knowledge and belief, save such as are from information only and my means of knowledge and sources of information appear on the face of this my Statement.

SWORN on 20th day of July 2005 at Townsville in the presence of:

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Deponent

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File No: 02/2735 Document NO. 6
Date Received: 29.6.05 Registration No. 053436
Action Officer: Date sent:
Copies to:

Reference: Action: KDW-1
Resubmit Date:
/ /

Noted + advice endorsed.
Copy of this memo for DM Townsville please, for your info.
File + away
SEHS 27/6/05

Queensland Government
Queensland Health

MEMORANDUM

To:	Dr John Scott, Senior Executive Director (Health Services)		
From:	Ms Rebecca McMahon, A/Manager, Investigations, Audit and Operational Review	**Contact No:** **Fax No:**	(07) 323 40835 (07) 323 41528
Subject:	Complaint submitted by Dr Brett Scott, General Practitioner, Ingham, in Relation to the Establishment of a Private General Practice Clinic at Ingham Hospital		
		File Ref:	A15

Protected

I refer to the above matter and provide the following advice.

Background
On 23 May 2005 you provided Audit with a letter of complaint submitted by Dr Brett Scott, General Practitioner (GP), Ingham, and requested that Audit conduct inquiries in order to determine the facts of Dr B Scott's complaint and establish whether there was any evidence of inappropriate conduct on the part of QH officers.

As outlined in his letter of complaint dated 13 May 2005, Dr B Scott expressed his "shock" to learn of "an arrangement between Dr Stewart Jackson and the Queensland Health Department (QH) for the establishment of a private medical centre in the grounds of the Ingham Hospital". Dr B Scott expressed his concern over the "lack of clarity in handling the issue" and requested "an investigation of possible collusion between a member or members of QH and Dr Jackson".

Investigation
As requested in your letter, Audit commenced preliminary inquiries into this complaint by contacting Dr B Scott on 24 May 2005. Specifically, he stated that:

- There had been a "lack of transparency" and "notification" in relation to the establishment of a private medical centre at the Ingham Hospital.
- Several private GPs, including Dr Jackson, who were former business partners of his, had formed an agreement with QH in respect to operating a private medical clinic within the grounds of the Ingham Hospital. He believed that there was a "deal" offered to these GPs and he was excluded from this offer, which he believed was unfair.

Audit conducted further inquires in relation to this matter by contacting Mr Ken Whelan, Manager, Townsville Health Service District, and Mr Neville Maroske, Manager, Asset Management Unit (AMU), Capital Works and Asset Management Unit (CWAMU).

Mr Ken Whelan

Mr Whelan advised Audit that:

- There had been an ongoing dispute between the GPs in Ingham.

- Dr B Scott had purchased the building in which the sole Ingham private medical centre was located and all the private GPs had continued to practice there until the professional relationship deteriorated, resulting in Dr B Scott issuing an eviction notice to the other GPs, effective as of June 2005.
- The remaining GPs approached QH and requested assistance in providing premises for them to practice from.
- The District had previously given consideration to the establishment of a multipurpose medical centre on the Ingham Hospital site and considered the proposal as an opportunity to establish a private medical practice there.
- The District contacted the Property Section, AMU, for advice in respect to composing a lease agreement.
- It was always intended that a lease would be subject to the following requirements:
  - The lease would be undertaken on a temporary basis.
  - The District would not supply any equipment to the tenants.
  - The tenants would cover the cost of any temporary renovations.
  - The arrangement would be strictly commercial and the premises would be leased at a competitive rate.
  - The tenants would be responsible for managing and servicing the leased space.
- Since forwarding his complaint, Dr B Scott has subsequently agreed to meet with Mr Whelan and discuss how he can be involved in the establishment of a private medical centre at the Ingham Hospital.

Mr Neville Maroske

Mr Maroske advised Audit that:

- The District had contacted the AMU in respect to the proposed leasing of space at the Ingham Hospital.
- The policy document entitled "Revenue Leasing Policy and Procedures, Leasing and Licensing of Health Real Property", Reference No: 19/12/01 (the Leasing Policy), allows for leases or licences for "Private Practice Clinics which are not integrally connected with hospital administration".
- The AMU would normally be contacted by a District with a proposal to establish a lease or licence and would then obtain relevant approvals from the Resource Management Directorate.
- The proposed arrangement to lease space at the Ingham Hospital had not yet been formally approved.

Conclusion

Based on the information obtained during Audit's preliminary inquiries, it appears that the District's actions in negotiating the lease of a part of the Ingham Hospital are in line with relevant QH policies and procedures. Further, there is no evidence to support the allegation that any QH officers have acted inappropriately during these negotiations. I have advised both Mr Whelan and Dr B Scott of the outcome of Audit's inquiries.

Given that this complaint does not raise a suspicion of official misconduct under the *Crime and Misconduct Act 2001* and/or indicate any inappropriate conduct by QH officers, Audit now intends to finalise its involvement in this matter.

If you have any queries in relation to this matter, please contact Mr Adam Tozer, A/Senior Internal Auditor (Investigations) on 32340293.

Rebecca McMahon
A/Manager
Investigations
Audit and Operational Review
21 / 6 / 05

KDW-2

(51)

Townsville Health Service District

Enquiries to: Executive Office
Telephone: 07 4796 1035
Facsimile: 07 4796 1021
Our Ref: KDW/JG

File No 00/1876	Registration No 3204690
Date Received 10/12/02	Date Sent
Action Officer	Copies
	Action
Completion Date / /	

Mr Demy-Geroe
Registrar
Medical Board of Queensland
Level 19, Forestry House
160 Mary Street
BRISBANE Q 4001

Dear Mr Demy-Geroe

I write to express my significant concern at the Medical Board's handling of matters surrounding Vincent Victor Berg.

It has come to my attention that the Medical Board was made aware in January 2002 that Vincent Victor Berg allegedly did not hold the primary medical qualifications he claimed in order to obtain registration in Queensland.

I am advised that you noted this was the case and did not seek to notify the Townsville Health Service District, which had been his sole employer during the period of his registration. It needs to be noted that Queensland Health employed Mr Berg on the belief that preliminary registration had been granted by the Medical Board.

We are now faced with the task of identifying all patients seen by Vincent Berg over the period of his tenure with the Townsville Health Service District to identify whether there has been any adverse outcomes for patients.

The time delay in finding out this information, which was only identified as an incidental remark in discussions with the College of Psychiatrists, has lead to significantly increasing the difficulty for the District and has potentially left patients at risk over a much longer period than was necessary.

I seek your explanation for the failure to notify the Townsville Health Service District and your undertaking that procedures will change within the Medical Board to ensure that we are notified of any significant issues in the future in a timely manner.

Office:	*Postal:*	*Telephone:*	*Facsimile:*
Executive Office *The Townsville Hospital* *100 Angus Smith Drive, Douglas 4814*	*PO Box 670* *Townsville Q 4810*	*07 4796 1035*	*07 4796 1021*

Further I seek your assurance that the Medical Board will be reporting this matter to the Police for investigation as a criminal offence.

Yours sincerely

Ken Whelan
District Manager
Townsville Health Service District
6/12/2002

cc Dr L Tofts, President, Medical Board of Queensland
Dr Steve Buckland, General Manager, Health Services, Queensland Health

Medical Board of Queensland

(56)

ISDW-3

Administration 61+7 3225 2503
Registrations 61+7 3234 0176
Complaints Unit 61+7 3234 0187
Health Assessment 61+7 3234 0183
FAX 61+7 3225 2527

RECORD NO.....991357:rcs....

January 28, 2003

Mr K Whelan
District Manager
Townsville Health Service District
P O Box 670
TOWNSVILLE Q 4810

Dear Mr Whelan

Re: Vincent Victor BERG

I refer to your correspondence of 6 December 2002, which was considered at a recent meeting of the Board.

It is regretted that Townsville Health Service District were not notified when the Board became aware that Mr Berg did not hold recognised qualifications to enable him to be registered to undertake postgraduate training in psychiatry.

As a result of your concerns, a process has been put in place to ensure that employing authorities are notified if it is subsequently found that a person, who has been registered, in fact did not hold recognised qualifications.

Yours sincerely

Dr L A Toft
CHAIRPERSON

File No 00/1876	Registration No MP0306966
Date Received 6.2.03	Date Sent 11.2.03
Action Officer:	Copies:
Reference	Action EDMS to note
Resubmit Date / /	

→ Copy - Andrew J
- John Allen
- Terry Mehen.

Office: Level 19, Forestry House, 160 Mary Street, Brisbane Q 4000
Correspondence address: GPO Box 2438, Brisbane Q 4001
e-mail: medical@healthregboards.qld.gov.au
website: www.medicalboard.qld.gov.au
Please address all correspondence to the Registrar

ISDW-9

From: Ken Whelan
To: Reeves.ChristopherR@police.qld.gov.au
Date: Fri, Jan 24, 2003 4:55 pm
Subject: RE: Vincent Berg (STRICTLY CONFIDENTIAL)

Thanks for the info Chris. I have already passed our conversation on to my superiors who I believe are seeking advice. Clearly this email makes your position even clearer but I need to clarify one thing I am told that this guy was registered by the medical board as a practitioner and on that basis Queensland Health employed him as a registrar therefore Queensland Health has done nothing wrong. If as it has been alleged this chap is not a doctor is it not the Medical Board (who are also a statutory body) responsibility to report him to the crime and conduct commission for investigation given it is actually them he misrepresented himself to.

Your clarification would be useful

Cheers

Ken Whelan

>>> <Reeves.ChristopherR@police.qld.gov.au> 01/24/03 12:50pm >>>
Ken,

my appraisal and advice on the situation is as follows:

It is my understanding that among other things, Berg managed to gain employment with your organisation by falsely representing himself to have the necessary qualifications to the Qld Medical Registration Board. It would appear that he has committed the crime of fraud, pursuant to Section 408C(d) of the Criminal Code namely, he dishonestly gained a benefit or advantage, pecuniary or otherwise by obtaining employment in a position that he was not legitimately qualified for.

Because he continued to work and dishonestly represent himself to be a psychiatric registrar within a unit of public administration, his actions would fall within the ambit of 'official misconduct' as defined in the Crime and Misconduct Act.

Among other things, under sections 38 & 39, Crime and Misconduct Act a public official must report any matter to the Crime and Misconduct Commission if there are reasons to suspect that a complaint or matter involves or may involve official misconduct.

It must also be recognised that a statutory obligation exists for myself to report such matters.

You may wish to seek legal advice on the above issues, as there may be factors that I am unaware of.

In addition to the statutory obligation placed upon public officials to report instances of suspected official misconduct, there are a number of other liability, ethical and duty of care imperatives that appear relevant.

As a precautionary measure, I have caused preliminary inquiries to be made regarding Berg's activities. I cannot divulge confidential information but for present purposes consider it appropriate to inform you, in non specific terms, that unsubstantiated information suggests that since leaving employment with the hospital, Berg has apparently continued to represent himself as having the following occupations - a bishop, psychiatrist, doctor and medical doctor. The last known occasion appears to be in May 2002 when he claimed to be a medical doctor.

It might be speculated that if Berg has relatively recently represented himself (albeit innocuously) to be a doctor or psychiatrist then the possibility may exist that he could be practicing and administering treatment while unqualified, whether it be in Queensland or elsewhere. The ramifications of this in terms of vicarious liability, duty of care to prospective patients and the safety and welfare of members of the community are self evident.

In addition, if Dr Allen has concerns for his own safety because of feelings that Berg might exact some form of retribution, it would be prudent to ensure that steps are taken to initiate a formal police or CMC investigation as soon as possible. Notably, the Crime and Misconduct Commission have carriage of the Witness Protection Program and have the capacity to conduct threat assessments and provide personal protection to individuals if necessary.

Furthermore, if Berg is eventually arrested and charged applications might be made to the Court to have him remanded in custody or bail conditions placed upon him.

The CMC are experienced in dealing with highly confidential and politically sensitive cases and I have every confidence that any concerns that may exist within your organisation about the media and public alarm will be respected.

To date the Queensland Police Service has not received any official complaint from which an investigation into Berg's activities might be commenced.
It is also understood that the Crime and Misconduct Commission have not been formally advised.

I earnestly recommend that the matter is immediately reported to the Crime and Misconduct Commission or alternatively that a formal complaint is made to the Queensland Police Service. It is only by such means that we can meaningfully help.

It is essential that you notify me of the decision reached by your organisation as soon as possible.

Chris Reeves
Townsville District Officer
4725 5035
Fax 4775 1520
0428 102 405
REEVES.ChristopherR@police.qld.gov.au

-----Original Message-----
From: Ken Whelan [mailto:Ken_Whelan@health.qld.gov.au]
Sent: Thursday, 23 January 2003 9:37 AM
To: Reeves.ChristopherR[NR]
Cc: John Allan
Subject: Vincent Berg (STRICTLY CONFIDENTIAL)

Morning Chris

I am told I have to formally write to you to seek police assistance in a potential serious matter which I will outline below.

Between January 2000 and November 2000 the above chap was employed as a psychiatric registrar having gained temporary registration from the Queensland Medical Board. At this time he was seen as a russian doctor who was seeking refugee status.

It has come to our attention in recent times that this person may in fact not have been a doctor at all. Clearly we have notified the relevant medical authorities about this. But from our point of view Dr John Allan our clinical director psychiatry has been auditing all the known patients seen by this chap and he has identified 50 he wants to actively review he will start contacting them next week .

At some point there is no doubt that the media will pick this up and do what the media does and apparently although we do not know Mr Bergs exact whereabouts he is understood to still reside in Queensland. Dr Allan has expressed serious concerns for his personal safety if and when this story breaks in the general media. There is a strong possibility that Mr Berg who has some interesting beliefs about his life and where he fits could see Dr Allan as persecuting him and seek retribution.

Dr Allan is as I have said the Clinical Director of Psychiatry. In my dealings with him I have always found him to be very calm and extremely competent if he is concerned about his own safety I take this concern very seriously and in light of what recently happened down in South Australia. I would like to enlist the assistance of the Police in this matter by locating Mr Bergs whereabouts on the basis that if this story does break we will at least be aware of where he is.

Thank you for your assistance.

Ken Whelan
District Manager
Townsville Health Services District
PO Box 670
Townsville
Queensland 4810
AUSTRALIA

Ph (07) 4796 1035
Fax (07) 47961021

KDW-5

From: Ken Whelan
To: Mehan, Terry
Date: Thu, Jan 23, 2003 2:19 pm
Subject: As per our conversation

Re: Vincent Berg

To confirm our telephone conversation today, I was speaking to Police this afternoon regarding this gentleman on the basis that we are concerned about the safety of Dr John Allan once we start contacting patients (should this information get into the media).

The Police who do not know all the details of the case, did know that this gentleman is still posing as a doctor - at least on official papers (I do not think he is actually practising).

I was asked by the Senior Police Officer had I reported this officially to Police and I said that I had not due to the fact that the person had been registered by the Medical Board of Queensland and to my knowledge I do not know whether he is or isn't a doctor. His comment to me was that there are strict laws in this State and he quoted the Crime and Misconduct Commission pointing out that if, at a future date, Berg is apprehended for posing as a medical practitioner and it is found that this information was known by another department, ie Queensland Health, that the Chief Executive of that department is subject to the full weight on the Commission.

As you know I am new to this country and do not fully understand these laws, and given I have passed all the relevant information on to Corporate Office on Berg I thought I should relay this conversation to you.

Ken Whelan
District Manager
Townsville Health Service District
23/1/03

00/1876
MEDICAL SERVICES
MEDICAL STAFF
DR VINCENT BERG

KDW-6

From: Ken Whelan
To: Mehan, Terry
Date: Fri, Jan 24, 2003 3:31 pm
Subject: Fwd: RE: Vincent Berg (STRICTLY CONFIDENTIAL)

HELP ! !

What is your advice on this one !

Ken W

KDW-7

From: Terry Mehan
To: Steve Buckland
Date: Fri, Jan 24, 2003 3:42 pm
Subject: Fwd: RE: Vincent Berg (STRICTLY CONFIDENTIAL)

Steve

This is escalating can you please advise what response we provide back to our conscientious police colleagues.

TM

CC: Ken Whelan

KDW-8

From: Terry Mehan
To: Ken Whelan
Date: Fri, Jan 24, 2003 4:27 pm
Subject: Fwd: RE: Vincent Berg (STRICTLY CONFIDENTIAL)

Ken

Advice from GMHS.

TM

From: Steve Buckland
To: Mehan, Terry
Date: Fri, Jan 24, 2003 3:51 pm
Subject: Fwd: RE: Vincent Berg (STRICTLY CONFIDENTIAL)

Terry

The fact that the Medical Board registered Dr Berg means that he has not misrepresented himself to Queensland Health. If he has misrepresented himself to the Medical Board, that is an issue for the Board and not QH.

There seems to be some inability for Dr Johnson et al to brief properly. QH does not register medical practitioners. We employ them. Dr Berg was registered by the Board when we employed him. Our issue is about the quality of his performance. In discussions with the Board they refuse to acknowledge that he was not registerable. Game set and match.

Therefore there is no official misconduct and no need to report. The QPS should be given these facts.

Steve

KDW-9

Reeves.ChristopherR[NR]

To: Ken_Whelan@health.qld.gov.au

Ken, you asked clarification on Berg. In my view the fact that Berg managed to gain employment under false pretences is only one part of the problem. The fact that he continued to represent himself and practice in a position that he wasn't qualified for and for which he was paid for, might be interpreted as a 'crime'. It would certainly be conduct that would warrant dismissal and would be 'official misconduct', particularly given the nature of the position and ramifications of incorrect diagnosis or treatment being given.

The issues are open to interpretation legal argument but my advice is that the elements of fraud under the Criminal Code can be made out.

I hope that helps.

Chris Reeves
Townsville District Officer
4725 5035
Fax 4775 1520
128 102 405
REEVES.ChristopherR@police.qld.gov.au

Chris Reeves
Townsville District Officer
4725 5035
Fax 4775 1520
0428 102 405
REEVES.ChristopherR@police.qld.gov.au

IF UNDELIVERED RETURN TO
THE TOWNSVILLE HOSPITAL
PO BOX 670 TOWNSVILLE Q 4810

POSTAGE
PAID
AUSTRALIA

Berg 001876

STRICTLY
CONFIDENTIAL

NOT TO BE OPENED WITHOUT
AUTHORITY OF
DISTRICT MANAGER

01-MAY-10

KDW-11

4pm Monday 11th

→ Julie.
Arrange a meeting with Dr Rossetto on his return from leave.

Ken. W
27/6.

Queensland Government

Queensland Health

Townsville Health Service District
District Administration

Enquiries to: Executive Office
Telephone: 07 4796 1003
Facsimile: 07 4796 1021
Our Ref: P:\dms\Shannon\corresp\June/240605
Email Andrew_Johnson@health.qld.gov.au

24th June 2005

Ensure this person Does NOT operate unless supervised by Dr Guerzo or Dr Rossetto on his return. If necessary put on leave until facts are established.

Ken Whelan
District Manager
The Townsville Health Service District

Dear Ken

RE Appointment of Dr Donald Myers

I write to detail my concerns about the appointment of Dr Donald Myers, to the position of Senior Medical Offer in Neurosurgery.

You will recall earlier this year, medical appointments at Staff Specialist level were handed over to the control of the Clinical Institutes, and my involvement was reduced from managing the recruitment, selection, appointment and credentialing process, to involvement only by request in the process up to Credentialing which I continue to manage.

In the case of Dr Myers, I was not involved at all until after the offer of full time Senior Specialist had been made and then again after he was offered a locum SMO position. I was asked to support the appointment after the recruitment process had been completed and without having the opportunity to meet the practitioner.

I expressed reservations after reviewing the CV of Donald Myers regarding the recency and continuity of practice and addressed these concerns to you, Shaun and Reno. Dr Myers had been working for the last two years in the Virgin Islands and prior to that had work hiatus of over two and a half years. I asked Reno specifically about the breadth of practice that Dr Myers experienced in the Virgin Islands and about his competence to deal with emergent care requirements in the Townsville Health Service. Reno reassured me that Dr Myers was current in general neurosurgery, specifically in clipping cerebral aneurysms and in current technologies supporting neurosurgical care. I requested that Reno provide advice in writing about the award of Clinical Privileges. This advice (attached) recommends privileges across the breadth of neurosurgery, excluding paediatrics.