

COMMISSION OF INQUIRY NO. 1 OF 2008  
MEDICAL BOARD OF QUEENSLAND

Exhibit No.:	(24)
Statement -	Mr. M. DEMY-GEROE
(4 attachments) dated	17/5/08
(W) -	M. DEMY-GEROE
(T) -	R. DEVLIN
	30/5/08
Bundaberg Hospital Commission of Inquiry	

**Statement of:**

Name: MICHAEL STEVEN DEMY-GEROE

Address: C/- Medical Board of Queensland, Level 19, 160 Mary Street,  
Brisbane, Queensland,  
  
Deputy Registrar, Medical Board of Queensland


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Mobile: 0423 272 839

Availability Available as required by the Commissioner

**States:**

1. This statement is made without prior knowledge of any evidence or information held by the Inquiry which is potentially adverse to the Board or its members, the Executive Officer of Office of Health Practitioner Registration Boards or its employees and in the expectation that any of the aforementioned will be afforded procedural fairness upon timely receipt of any notice of adverse allegation, or notification of evidence or information requiring the response of any of the aforementioned.
2. My full name is MICHAEL STEVEN DEMY-GEROE and I am a Deputy Registrar of the Office of the Health Practitioner Registration Boards ("OHPRB"). I have held this position since approximately May 1988. As Deputy Registrar I was initially assigned five health practitioner registration Boards which included Dental and Optometry. Around mid-1992, I commenced with the Medical Board of Queensland.
3. I am a career public servant and rose from junior clerk in the Mines Department to various responsible positions during the 1970's. After a brief appointment as an assistant to the Deputy Director-General of the Department of Mines in 1980, I was selected for a ministerial staff position with the Office of the Minister for Mines and Energy. I stayed in that position

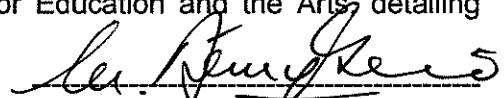
  
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for some five years and regularly acted as the Minister's private secretary. In 1986, following a re-organisation of ministerial portfolios, I joined the staff of the Minister for Health. As a result of the political upheaval in late 1987, I stayed on briefly with the newly appointed Minister for Health but soon after transferred to a project officer position within the Project Development Unit in Queensland Health.

4. The position of Deputy Registrar was originally a statutory one under the *Medical and Other Acts Administration Act 1967*. It has been upgraded on several occasions since my initial appointment, and I have had to seek re-appointment. Annexed hereto and marked "**MDG-1**" is the current position description for the position of Deputy Registrar. Annexed hereto and marked "**MDG-2**" is my resume which I submitted for my 2002 re-application for the position of Deputy Registrar.

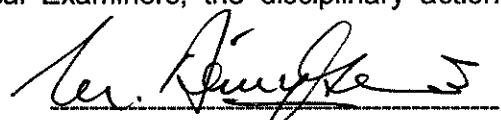
#### **TERM OF REFERENCE (1)**

5. On or about 8 April 2005 I began to prepare a report outlining the background of the decision of the Medical Board of Queensland to approve the special purpose registration of Dr Jayant Mukundray Patel ("Dr Patel"). On 13 April 2005 I provided the report to Mr James O'Dempsey, Executive Officer of the Office of Health Practitioner Registration Boards. Annexed hereto and marked "**MDG-3**" is a true copy of that report.
6. I prepared the report "**MDG-3**" at the request of Mr James O'Dempsey ("O'Dempsey") after concerns had been raised as to the medical competence of Dr Patel.
7. I first became aware of concerns in relation to the medical competence of Dr Patel on or about 15 February 2005. I participated in discussions with Mr James O'Dempsey and Dr Gerry FitzGerald, Chief Health Officer ("Dr FitzGerald"), regarding informal complaints which had been made against Dr Patel. I had been advised that informal complaints were raised to O'Dempsey at a meeting with representatives of the Queensland Nurses Union on 15 February 2005 and that complaints had also been made to Dr FitzGerald on 16 February 2005 when he met with staff from the Bundaberg Base Hospital.
8. On 23 March 2005 the OHPRB received a letter dated 22 March 2005 from Mr Rob Messenger, Shadow Minister for Education and the Arts, detailing

  
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concerns relating to Dr Patel's medical competence. Annexed hereto and marked "MDG-4" is a true copy of the letter received from Mr Messenger.

9. On or about 30 March 2005 the Medical Board received a letter from Dr FitzGerald dated 24 March 2005 describing concerns of staff at the Bundaberg Hospital and requesting the Board consider assessing Dr Patel's performance. A true copy of this letter is annexed hereto and marked "MDG-5."
10. On 7 April 2005 the OHPRB received an additional letter from Mr Messenger addressed to Dr Mary Cohn requesting acknowledgment of his letter of 22 March 2005. Annexed hereto and marked "MDG-6" is a true copy of the letter received from Mr Messenger.
11. On 7 April 2005, I responded in writing to Mr Messenger's letters. I advised Mr Messenger that Queensland Health had requested that the Board assess Dr Patel's performance and that the matter had been referred to the Complaints' Committee. I also advised Mr Messenger of the state of Dr Patel's registration and that the Board would keep Mr Messenger informed of any action. Annexed hereto and marked "MDG-7" is a true copy of my letter to Mr Messenger.
12. On or about 8 April 2005 I discovered that Dr Patel's "Verification of Licensure" from the Board of Medical Examiners of the State of Oregon notes in relation to his standing, "Public order on file. See Attached." I then discovered that no attachment had been provided by Dr Patel. Annexed hereto and marked "MDG-8" is a true copy of the "Verification of Licensure". I am the person who made the notation in pencil on this "Verification of Licensure" certificate. I made this notation in order to draw someone's attention, I cannot recollect whose, as to where the problem lay.
13. On or about 8 April 2005 I conducted an Internet search and discovered that the Oregon Board of Medical Examiners had restricted Dr Patel's practise of surgery and that his licence to practise medicine had been surrendered in New York as a result of disciplinary action. The results of this Internet search are detailed further in paragraphs 4.1 - 4.5 of the report "MDG-3." Annexed hereto and marked "MDG-9" are true copies of a summary of Board Actions taken by the Oregon Board of Medical Examiners, the disciplinary action

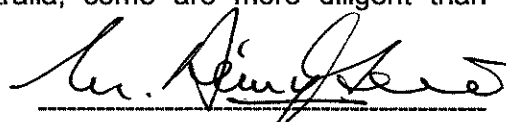
  
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taken by the Board of Medical Examiners of State of the Oregon and the disciplinary action taken by the New York State Board for Professional Medical Conduct.

14. After discovering Dr Patel's undisclosed disciplinary history in the United States, I completed the report "MDG-3."
15. The report exhibited as "MDG-3" was tabled in Parliament on 19 April 2005 by the Minister for Health, the Honourable Gordon Nuttall, as Attachment A to a Report to the Minister for Health dated 15 April 2005.

#### **General observations on applications for registration**

16. Applicants for registration must personally apply for registration. The procedural requirements for making an application are found in section 42 of the *Medical Practitioners Registration Act 2001*. Applicants are required to submit a completed Form M1 with accompanying documentation as set out in the guidelines included in the form. The form incorporates a declaration by the applicant that he or she is the person named in the supporting documents. I am not aware of an application having ever been completed by another person on behalf of an applicant. I have not explored the legal position of whether this should be possible, but am inclined to believe such an application would be unacceptable, given the declarations which must be made. Annexed hereto and marked "MDG-10" is the current application form (M1) for general and special purpose registrations.
17. As the medical workforce situation gradually worsened, a shift occurred to sourcing graduates of less familiar medical schools for filling 'area of need' vacancies. Recruiting and registration became correspondingly more complex and specialised. Recruiting agencies increasingly stepped in to locate and guide applicants through the immigration, area of need, and registration requirements which must be negotiated before deployment to an identified workforce vacancy is possible. While recruiting agencies maintain contact with OHPRB staff, the relationship would be characterised as professional rather than close. I respectfully observe that recruiting agencies approach their role in different ways. For example, some direct their recruiting efforts to third world or Eastern European countries while others recruit from jurisdictions more comparable to Australia; some are more diligent than



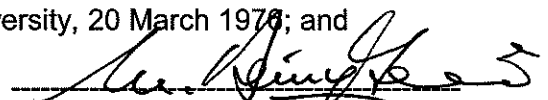
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others in assessing suitability for particular vacancies; some focus on public sector vacancies while others appear to cater to medical deputising and locum clients.

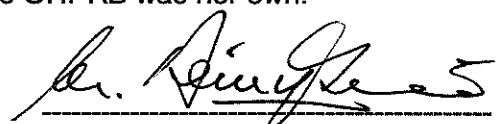
18. When applications are first received by the Medical Board of Queensland they are initially assessed by a Registration Officer (Administration Officer (Registrations)). Registration applications are case managed by Registration Officers, and no other staff are involved at this stage in the assessment of applications. Annexed hereto and marked "MDG-11" is a true copy of the position description of Administration Officers (Registration).

#### **Original application of Dr Jayant Patel**

19. As detailed in paragraph 2.3 of the report exhibited as "MDG-3," Dr Patel's original application for special purpose registration was submitted by Wavelength Consulting Pty Ltd ("Wavelength Consulting"), a recruiting agency based in Sydney. Dr Patel applied for special purpose registration to fill an area of need. Annexed hereto and marked "MDG-12" is a true copy of the letter from Suzy Tawse of Wavelength Consulting to the Registrar of the Medical Board of Queensland dated 17 January 2003.
20. Annexed hereto and marked "MDG-13" is a true copy of the letter from Dr Kees Nydam, Assistant Director of Medical Services, Bundaberg Health Service District, Bundaberg Base Hospital, to the Registrar of the Medical Board of Queensland dated 8 January 2003 and submitted on behalf of Dr Patel by Wavelength Consulting.
21. Annexed hereto and marked "MDG-14" is a true copy of the application form completed and signed by Dr Patel dated 6 January 2003 and submitted on his behalf by Wavelength Consulting.
22. Annexed hereto and marked "MDG-15" are true copies of the supporting documentation provided with Dr Patel's application and submitted on his behalf by Wavelength Consulting. Included among these supporting documents, Dr Patel provided certified copies of:
  - (a) Bachelor of Medicine and Bachelor of Surgery, Saurashtra University, 11 March 1973; and
  - (b) Master of Surgery, Saurashtra University, 20 March 1976; and

  
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- (c) Certificate Dr Patel served as an Intern in Surgery 1 July 1978- 30 June 1979 and resident in Surgery 1 July 1979-31 December 1981; and
  - (d) Certificate of Residency in General Surgery Erie County Medical Centre Program II, State University of New York at Buffalo, 1 July 1982-30 June 1983 and Chief Resident in Surgery 1 July 1983-30 June 1984; and
  - (e) State of Oregon Board of Medical Examiners, Licence, 14 April 1989; and
  - (f) Oregon State Board of Medical Examiners, Certificate of Registration for Medical/Physician and/or Surgeon, 14 April 1989- 31 December 2003; and
  - (g) Controlled Substance Registration Certificate, 22 April 2002; and
  - (h) American Board of Surgery, Certificate that Dr Patel has satisfied all requirements for recertification and is reaffirmed as qualified in the specialty of Surgery, 18 October 1996.
23. Annexed hereto and marked "**MDG-16**" and "**MDG-17**" are true copies of Form 1, completed by the Assistant Director of Medical Services of the Bundaberg Base Hospital, and Form 2 completed by Dr Patel and submitted on behalf of Dr Patel by Wavelength Consulting.
24. Annexed hereto and marked "**MDG-18**" and "**MDG-19**" are true copies of the position description of the Senior Medical Officer- Surgery at the Bundaberg Base Hospital and Dr Patel's curriculum vitae, submitted on behalf of Dr Patel by Wavelength Consulting.
25. The Registration Officer who initially assessed Dr Patel's application was Ainslie McMullen. Ainslie McMullen was granted leave without pay from her position from 1 November 2004 while she considered an employment opportunity outside the OHPRB. She subsequently tendered her resignation which took effect from 3 May 2005. Ainslie McMullen's leave and her resignation were unrelated to any issues of performance or competence and the decision to leave her position with the OHPRB was her own.




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26. The responsibilities of Registration Officers in regard to special purpose registration are to assemble all documentation and to check the documentation in accordance with the Medical Board of Queensland's *Policy for Special Purpose Registration*. Annexed hereto and marked "MDG-20" is a true copy of this policy.
27. As paragraph 4.4.2 of the *Policy for Special Purpose Registration* "MDG-20" makes clear, the Minister for Health is responsible for determining whether there is an area of need and the role of the Medical Board of Queensland is to determine whether a particular doctor is suitable for the relevant position.
28. In relation to Dr Patel's application, Queensland Health had endorsed Dr Patel's application for the position of Senior Medical Officer at Bundaberg Base Hospital as an area of need application. Annexed hereto and marked "MDG-21" is a true copy of the Application for Area of Need Certification.
29. On 21 January 2003 Suzy Tawse of Wavelength Consulting forwarded a faxed copy of Dr Patel's "*Verification of Licensure*" from the Board of Medical Examiners of the State of Oregon to Ainslie McMullen. Annexed hereto and marked "MDG-22" is a true copy of the facsimile letter from Wavelength Consulting.
30. On or about 29 January 2003 a letter from Wavelength Consulting enclosing Dr Patel's original "*Verification of Licensure*" from the Board of Medical Examiners of the State of Oregon was received by the Medical Board of Queensland. Annexed hereto and marked "MDG-23" is a true copy of the letter received from Wavelength Consulting.
31. Dr Patel's file includes a Registration Checklist for Applicants applying to fill an area of need dated 3 February 2003 which was completed by Ainslie McMullen. This checklist indicates that Ms McMullen signified a belief that all requirements for the application were complete, including the provision of a certificate of good standing. Annexed hereto and marked "MDG-24" is a true copy of the Registration Checklist.
32. I believe, as detailed in paragraph 5.3 of the report "MDG-3," that Ainslie McMullen was an experienced and methodical staff member.



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33. I periodically remind the registration staff that they need to be critical of documentation, since their work is not checked again. Such reminders are usually given at team meetings and I have also discussed several instances of discovered fraud over the years to staff in order to stress the need to closely scrutinise all documentation.
34. Once the documentation is initially checked, the Registration Advisory Committee ("RAC") is responsible for considering the suitability of the applicant to the relevant position. The Deputy Registrar and Assistant Registrar assist the Committee in reviewing files. Individual Committee members review and assess suitability in terms of equivalence of training, experience, particular knowledge, skills and abilities relevant to the identified position's requirements, and also in the case of applicants with previous experience in Queensland, the performance report.
35. The RAC has before it the complete file of each registration application being considered. The RAC might consider up to 150 applications at a meeting and therefore it is not able to re-process the application or check individual documents. From my experience in assisting the RAC in its tasks, my understanding is that the Committee members focus their attention on the area of need certifications, forms 1 and 2, and the curriculum vitae.
36. On 3 February 2003 I attended a RAC meeting. I reviewed Dr Patel's initial application. It appears from my notation on the Registration Checklist "**MDG-24**" that my principal concern was that Dr Patel ought not be represented as a specialist in view of his American specialist qualification, and, consistent with my usual practice, I believe I discussed this with the Committee members. In general, any concerns noted during review of applications at the Committee meeting are raised for discussion and individual determinations are reported at the conclusion of the meeting drawing attention to any relevant issues.
37. At the conclusion of this meeting the RAC recommended that Dr Patel's special purpose registration be approved. A true copy of the Registration Advisory Committee Report, which is incorrectly dated as 3 February 2002 rather than 2003, is annexed hereto and marked "**MDG-25.**"
38. On 11 February 2003 I attended a meeting of the Medical Board of Queensland where Dr Patel's application was approved for registration. A true

  
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copy of an extract of the Minutes of the meeting of the Medical Board is annexed hereto and marked "MDG-26." The registration was approved subject to Dr Patel finalising requirements of registration.

39. Dr Patel's file indicates that on or about 12 February 2003 he was advised in writing that his special purpose registration had been approved subject to his attending an interview with a Board member. Annexed hereto and marked "MDG-27" is a true copy of the letter.
40. The process of interviewing registrants was discontinued from 1 December 2004 when a registration pack was introduced for presentation to new registrants. Annexed hereto and marked "MDG-28" is a summary of the interview process as set out in the Board's guidelines, together with my submission which led to the discontinuation of the interview requirement.
41. Dr Patel's file indicates that Dr John Waller, a Board member at that time, interviewed Dr Patel. A letter sent on or about 31 March 2003 to Dr Waller lists all the documents that had been presented and requested that Dr Waller sign the letter after interviewing Dr Patel, and being satisfied that Dr Patel complied with the *Medical Practitioners Registration Act 2001* and held the qualifications which entitled him to registration. Dr Waller would have had the Board file and decision before him. Dr Waller signed this letter and dated it 31 March 2003. Annexed hereto and marked "MDG-29" is a true copy of this letter.
42. Dr Patel's file indicates that a letter dated 1 April 2003 was then sent to Dr Patel advising him that he had been granted special purpose registration. Annexed hereto and marked "MDG-30" is a true copy of this letter.
43. Annexed hereto and marked "MDG-31" is a true copy of a certificate of special purpose registration which certifies that Dr Jayant Patel had been registered in Queensland as a Medical Practitioner between 1 April 2003-31 March 2004.
44. As detailed in paragraphs 5.3-5.7 of the report "MDG-3," while I believe the failure to discover the disciplinary history of Dr Patel is inexcusable, I do believe the circumstances of this failure are worthy of mention.



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45. With respect, I believe that Dr Patel deliberately attempted to mislead the Medical Board. Dr Patel stated on his application "MDG-14" that his registration had never been affected "by an undertaking, the imposition of a condition, suspension or cancellation, or in any other way" and that his registration as a health practitioner had never been suspended or cancelled and was not currently suspended or cancelled due to disciplinary action. The attachment to the Oregon "*Verification of Licensure*" was also removed in what I believe was a deliberate attempt to mislead the Medical Board.
46. While I believe that the notation on the Oregon "*Verification of Licensure*" to "see attached" should have been investigated, it should be noted that unlike most jurisdictions, the various registration bodies in the United States do not issue certificates of good standing. Most other jurisdictions provide certificates of standing that state clearly that the relevant health practitioner has no disciplinary history and is in good standing. The "*Verifications of Licensure*" issued by registration bodies in the United States do not provide such clear statements.
47. With respect, I also believe that the workload on the registration officers at the time Dr Patel's application for registration was received may also have been relevant to the failure to discover the past disciplinary history of Dr Patel. When Dr Patel's application was received, four Registrations Officers were dedicated to registration processing with 1.4 staff members responsible for initial processing of area of need applications. As detailed in paragraph 5.6 of the report "MDG-3," 233 area of need special purpose applications were approved in January 2003 and 104 were approved in February 2003. The number of applications at the time Dr Patel's application was received does indicate that staff were overworked in this period.

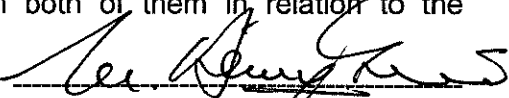
#### **Renewals of Dr Patel's Registration**

48. A perusal of Dr Patel's file indicates that a letter dated 3 December 2003 from the Medical Board of Queensland to Dr Patel noted that his special purpose registration would expire on 31 March 2004. The letter stated that the documents provided for the original application do not need to be resubmitted. Annexed hereto and marked "MDG-32" is a true copy of this letter.



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49. Dr Patel's file indicates that he applied for renewal of his registration in December 2003. Dr Patel's application revealed that the relevant position was now Director of Surgery at the Bundaberg Base Hospital. A true copy of the complete application for renewal received at the OHPRB on 11 December 2003 is annexed hereto and marked "MDG-33."
50. Documents that have been submitted with a previous application are generally not required to be resubmitted with an application for renewal of registration. This is particularly so in relation to a certificate of good standing in a situation of extending or renewing registration where the applicant's professional practice in Queensland has been uninterrupted.
51. Annexed hereto and marked "MDG-34" is a true copy of the Registration Checklist dated 15 December 2003 which indicates that all requirements had been complied with upon the renewal. It was recommended that Dr Patel's special purpose registration be approved.
52. At the meeting of the Medical Board on 27 January 2004 the Board approved Dr Patel's special purpose registration for the period 1 April 2004 to 31 March 2005. Annexed hereto and marked "MDG-35," "MDG-36" and "MDG-37" are true copies of an extract from the Minutes of the meeting of the Medical Board approving Dr Patel's registration, Dr Patel's certificate of registration, and a letter dated 9 March 2004 from the Medical Board to Dr Patel advising him of the decision to grant his special purpose registration.
53. On or about 7 February 2005, the Medical Board received an application for renewal of special purpose registration from Dr Patel. Annexed hereto and marked "MDG-38" is a true copy of the complete application for renewal.
54. As a delegated decision maker in relation to applications for renewals of special purpose registration I requested the application be considered by the RAC, rather than approving the renewal of Dr Patel's registration. Annexed hereto and marked "MDG-39" is a true copy of the Registration Checklist indicating that the application is to be considered by the Registration Advisory Committee.
55. I made the decision referred to in paragraph 54 of this Statement after discussions with Mr O'Dempsey and Dr FitzGerald which indicated that informal concerns had been raised with both of them in relation to the

  
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competency of Dr Patel. These concerns are detailed in paragraph 7 of this Statement.

56. I asked Duncan Hill ("Hill"), a Registration Officer with the Medical Board of Queensland, to determine whether Dr Patel intended to remain at Bundaberg Base Hospital and whether the hospital itself intended to continue to employ Dr Patel.
57. I was advised by Hill that he had spoken to Peter Leck, District Manager of the Bundaberg Base Hospital ("Leck"), on 30 March 2005 and again on 1 April 2005. A file note written by Hill indicates that he was informed by Leck that Dr Patel had advised Leck of his decision not to accept further employment with Bundaberg Base Hospital. Annexed hereto and marked "MDG-40" are true copies of file notes of Hill.
58. A letter from Leck to Hill and received by the Medical Board on 1 April 2005 confirmed that Dr Patel had decided not to take an additional contract with the Bundaberg Base Hospital and intended to leave Australia on 4 April 2005. Annexed hereto and marked "MDG-41" is a true copy of this letter.
59. Once confirmation that Dr Patel was not employed by the Bundaberg Base Hospital was received, I requested that staff arrange for the withdrawal of the certificate for the area of need for that position. On 5 April 2005, Queensland Health advised by email that the application for area of need had been cancelled. A true copy of the email received from Queensland Health is annexed hereto and marked "MDG-42."

**Audit of special purpose registrants:**

60. With respect, it is my belief that the audit of special purpose registrants which was conducted in April 2005 revealed only minor procedural issues and that there were no additional instances of fraudulent activity discovered.

**Dr Henry Andy**

61. I am aware of concerns that have been raised regarding the qualifications of Dr Henry Andy who worked at Bundaberg Base Hospital as a Junior House Officer from 12 November 2002 until January 2003.

  
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62. With respect, I believe there are no issues or reasons for concern relating to Dr Andy's qualifications as he was suitably qualified for his position. I believe Dr Andy left Australia because of problems with the visa he held.
63. I am aware that Dr Andy's registration file and any investigation file concerning Dr Andy will be copied and provided to the Inquiry by the Board's solicitors.

**Dr Tariq Qureshi**

64. I am not aware of the precise details of the complaints that have been made against Dr Qureshi and cannot comment on these complaints. Similarly, I am aware that his registration file and any investigation file concerning Dr Qureshi will be copied and provided to the Inquiry by the Board's solicitors.

**Dr Keith Muir:**

65. On 16 April 2005 registration officer Hill received an email from Gayle O'Neill which advised that Dr Keith Muir "Dr Muir", a psychiatrist working at Nambour, had an undisclosed disciplinary history in the United States. Annexed hereto and marked "MDG-43" are true copies of emails from Gayle O'Neill. I am unaware of who Gayle O'Neill is or the circumstances surrounding her decision to email the Medical Board with her information regarding Dr Muir.
66. On or about 18 April 2005 I was informed that Dr Muir's licence to practise medicine in New Jersey had been revoked on 10 November 2003 and his licence to practise medicine in New York had been revoked on 6 January 1995.
67. The revocation of Dr Muir's licences in the states of New Jersey and New York apparently resulted from his sexual relationships with two patients and his failure to maintain appropriate records in relation to both patients. Annexed hereto and marked "MDG-44" is a true copy of the Determination and Order of the New York State Board for Professional Medical Conduct.
68. I undertook a review of Dr Muir's file on or about 18 April 2005 and discovered that his registration in Queensland preceded the disciplinary action in New Jersey and New York.



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69. Dr Muir's file indicates that the Medical Board first received Dr Muir's application for registration on 20 July 1992. Annexed hereto and marked "MDG-45" is a true copy of the complete application, including a certificate of good standing from the State of New Jersey Board of Medical Examiners.
70. There is a letter on Dr Muir's file from the Medical Board of Queensland indicating that he had been granted provisional registration from 21 July 1992. Annexed hereto and marked "MDG-46" is a true copy of this letter.
71. On 19 April 2005 I advised Gayle O'Neill of the inquiries which had been taken in response to her email and that the matter had been referred to the solicitors of the Medical Board. Annexed hereto and marked "MDG-47" is a true copy of this email.
72. A show cause notice was issued by O'Dempsey to Dr Muir on 3 May 2005.
73. I am aware that Dr Muir's registration file and any investigation file concerning Dr Muir will be copied and provided to the Inquiry by the Board's solicitors.

Statement taken:

STATEMENT signed *17<sup>th</sup> day of May* 2005



Michael Steven Demy-Geroe



Michael Steven Demy-Geroe