

**STATEMENT OF STEPHEN MICHAEL BUCKLAND – THIRD STATEMENT**

1. I am the former Director-General of Queensland Health.
2. The purpose of this statement is to:
  - (a) expand on a few matters already dealt with in my first statement (dated 30 August 2005) in the interests of reducing the length of my oral evidence; and
  - (b) answer additional questions asked of me by Counsel Assisting the Inquiry on 15 September 2005.

**Dr FitzGerald’s Confidential Audit Report of General Surgical Services – BBH – March 2005**

3. A document that is not included in my first statement is the Confidential Audit Report prepared by the Chief Health Officer (CHO) , Dr FitzGerald, in March 2005. I am told that a copy of the report is Exhibit 230.
4. As appears from paragraph 23 of my first statement, the CHO’s report was not completed and provided to me until 24 March 2005.
5. The CHO had dual reporting functions. In addition to reporting to the DG, he also reports directly to the Minister via Minister’s office.
6. I note that the former Minister, Mr Nuttall gave evidence of being orally briefed by the CHO on 22 March 2005 and that Mr Nuttall says the CHO indicated to him ‘that it appeared that Dr Patel had performed surgery outside his scope of practice and he advised the hospital for that to cease and that the report would be finalised in the near future’ (para 27).
7. This is substantially the same advice that I had received from the CHO the same day (see my first statement para 20).
8. Because the CHO had briefed the Minister directly, the expected course would be for the completed report from the CHO to be sent to the Minister’s office by the CHO or his staff.
9. The Minister’s staff would be expected to request the report from the CHO’s office if it had not been delivered, as predicted. Once the report was received by the Minister’s staff, they would be in a position to brief the Minister concerning its contents.

**Visit to Bundaberg on 7 April 2005**

10. I have addressed these matters in paragraphs 32 to 35 of my first statement. I reiterate my regret at any confusion that may have been caused by the expressions that I used at the meeting and my failure to clearly explain why the Confidential

Audit Report should not be publicly released. It was my understanding that Dr Patel had yet to be given an opportunity to respond to adverse comments and findings contained in the Report. I considered, and still do, that it is an important principle that staff be given an opportunity to respond to adverse findings. The principle was not confined to Dr Patel. If, for example, a nurse was a subject of adverse comments or findings in an audit report, and had yet to have a chance to respond, then I think it would be unfair to the nurse to publicly release the report and have the nurse's reputation damaged in the media. This was the principle that I tried to articulate, and I regret that my intent may have been misunderstood.

11. I did not expect the Audit Report to be the end of the matter. I expected the investigation process to continue.
12. The meeting with staff concluded with the undertaking that Dr FitzGerald would return to Bundaberg to brief the staff and that any system or hospital recommendations would be followed up with the hospital by the CHO.
13. As I have already mentioned in paragraph 33 of that statement, it was clear from the mood of the meeting and the level of frustration and anger verbalised by some staff that there were more significant issues with Dr Patel than the Minister and I had been briefed about.

#### **Events after leaving Bundaberg on 7 April 2005**

14. In paragraph 36 of my first statement I state that on the flight from Bundaberg to Brisbane I relayed to the Minister the fact that Dr Patel may not be everything that we had heard. I said words to the effect 'There is more to this guy than we know – I'll have a look at it.' I did not refer on the flight to what Dr Keating had told me that afternoon about his Google search on Dr Patel. This was for two reasons. First, Dr Keating said that he did not want to be identified as the source of this information. Second, I wanted to check on it to ensure its accuracy before advising the Minister about it. Therefore, when I arrived home I used my home computer to search for details about Dr Patel's US registration, as appears from **SMB-6**, which are the search results dated 7 April 2005.
15. I spoke to the Minister by phone the next day and told him that Dr Patel had restricted registration in the US.
16. The matter of Dr Patel's registration restrictions in the US was mentioned again to the Minister on Saturday 9 April, when we discussed the establishment of the Review Team. Dr Patel's registration restrictions in the US also were referred to on 12 April 2005 when the Minister and I were in a car driving from Atherton Hospital along with Jill Pfingst from my staff and Cameron Milliner from the Minister's staff.
17. Dr Patel's registration in the US was the subject of a newspaper report in *The Courier-Mail* on 13 April 2005.

18. In summary:

- (a) The oral briefings that I received by the CHO and the content of his March 2005 Confidential Audit Report did not alert me to the depth of concern expressed by some members of staff at the staff meeting that the Minister and I attended in Bundaberg on 7 April 2005.
- (b) I believe that the CHO, the Minister, the MBQ and I became aware of restrictions on Dr Patel's registration in the US on 7 April 2005 or within the next few days. Certainly nothing said to me by the CHO when I spoke to him on the night of 7 April 2005 indicated that he or the MBQ had been told of restrictions on Dr Patel's registration in the US.
- (c) I spoke to the CHO on the night of 7 April 2005 about Dr Patel's restricted registration in the US and said that he should advise the MBQ as a matter of priority. I believe that he did so. The CHO is a member of the MBQ.
- (d) I spoke to the Minister about Dr Patel's restricted registration in the US on 8 April 2005.
- (e) The mood and content of the meeting with the staff on 7 April 2005, and then the revelation that Dr Patel had a restricted registration in the US, were matters which convinced me that the seriousness of the matter required a comprehensive review, and, as I explain in paragraphs 40 and 41 of my first statement, the Minister agreed with advice to form an investigative team.

### **Giblin-North Report**

- 19. I have been asked by Counsel Assisting the COI to address further questions in relation to the Giblin-North Report. I received these additional questions on the evening of 15 September 2005 and I have not been able to obtain all of the documents from QH that I might need to fully answer all the questions. However, I am able to give the following responses.
- 20. I refer to paragraphs 248 - 249 of my second statement signed on 16 September 2005. The steps that were taken in response to the Giblin-North report were done at the district level with involvement of the Audit branch. I would expect that guidance and direction would have been given by the CHO and SEDHS to implement recommendations. I did not initiate a review of Dr Naidoo other than the referral to the CMC. I had understood that Dr Kwon had been acting as the director of Orthopaedics and Dr Naidoo was no longer working at HBH so Dr Naidoo was not an immediate priority of mine. My priority was to make sure the patients were okay and to keep the services functioning. My recollection is that QH implemented a response similar to that which occurred in Bundaberg, including sending a patient liaison officer to Fraser Coast, having patients reviewed by other consultants and setting up a hotline for members of the community to call in. Also I had an expectation that any investigation of Dr

Naidoo would be carried out by the former COI. I do not recall whether the CHO, SEDHS or the district initiated a review. I also do not recall what improvements in the quality and safety arrangements were made by the Acting District Manager. These decisions did not require my authorisation and therefore I may not have been made aware of these matters. However, I cannot definitely say whether or not I was advised without having reference to relevant documentation.

21. I do recall that assessment of the clinical skills of Drs Krishna and Sharma was being addressed by Dr Scott – I refer to exhibit **SMB75** to my second statement.
22. I do not recall seeing the report entitled “Orthopaedic Services – Fraser Coast Health Service District – May 2005- September 2005” and believe it may have been produced after I ceased being Director-General. I do not recall whether I was made aware of documentation produced during the course of the process outlined in the report or by the reviewing doctors. I would not expect that I would be provided with such documentation as I would expect this would be dealt with at the district, zonal and health services level. It is possible that I may have received a briefing summarising some of these matters but unfortunately I do not recall whether or not this occurred.
23. As to the talking points suggested by the CHO, I cannot answer for the CHO about his intentions or otherwise when preparing the talking points. However, I do not believe there is a custom at QH to downplay matters generally and I do not believe that the CHO was doing any such thing in the speaking notes.

### **Measured Quality**

24. On the evening of 15 September 2005, I was asked by Counsel Assisting the COI to address some questions in relation to Measured Quality. This supplementary statement is made in circumstances where I have only had the opportunity to quickly read a handful of QH documents to assist my recollection of events and is therefore largely made on the basis of my memory of events.
25. The development of the concept of the Measured Quality Reports was initiated prior to my time as GMHS. I understand that the purpose of the reports is to, amongst other things, allow an assessment of the performance of hospitals and a comparison between hospitals on the basis of four criteria, being clinical outcomes, patient satisfaction, efficiency and system integration and change. I would recommend that the Commission obtain evidence from experts within QH to provide a more comprehensive explanation of the purpose, process and distribution of the reports.
26. My recollection is that the first reports were completed in 2002 but I cannot recall if this was before or after I became GMHS. My belief is that there was a direction from Cabinet about the extent to which the reports could be distributed. I do not recall whether this meant they could not be sent to district managers as I recall that district managers were able to access the reports from a secure website and

were provided with verbal briefings on the contents of the reports. I do not recall the extent of distribution of reports from the second phase of the process in 2004. I was less involved in this phase as I was DG by this time. Unfortunately, my memory is such that I cannot give the Commission a definite answer about the extent to which the reports could be distributed and were distributed and whether or not they became "Cabinet confidential".

27. My personal opinion is that there is no reason why the reports should not go to Cabinet, but equally they should be available to hospitals to give feedback to the hospitals. As I have stated above, my understanding has been that the district managers did get the reports but I may be wrong about this.

Dated 19 September 2005.

A handwritten signature in black ink, appearing to read "Stephen Michael Buckland". The signature is written in a cursive style with a large initial 'S' and 'B'.

**Stephen Michael Buckland**