

# QUEENSLAND PUBLIC HOSPITALS

## *Commission of Inquiry*

### STATEMENT OF Samuel Patrick Baker

I Samuel Patrick Baker, General Surgeon of an address known to the Commission swears:

1. I am a duly qualified medical practitioner registered to practice in the State of Queensland. I work in private practice as a general surgeon in Townsville having moved there in 2003. I am a Visiting Medical Officer (VMO) to The Townsville Hospital and the Ingham Base Hospital.
2. I hold the degrees of Bachelor of Medicine and Bachelor of Surgery obtained from the University of Queensland in 1993. I completed my intern year at the Townsville Base Hospital in 1994 and then spent one year on rural health scholarship at the Bowen Base Hospital. I then moved to Sydney as a non-training surgical registrar, and for the year 1996 I worked at Westmead, Blacktown and Mount Druitt Hospitals.
3. In 1997 I was admitted to the advanced general surgical training program offered by the Royal Australasian College of Surgeons (RACS). I completed my training in that regard at the Prince Charles Hospital in Brisbane, Townsville General Hospital, Bundaberg Base Hospital (BBH), Nambour Hospital, and Royal Brisbane Hospital. I obtained my Fellowship of the RACS in 2000 and commenced employment as a staff specialist at BBH in 2001.
4. My training at BBH took place in the last six months of 1998. At that time two general surgeons, Dr Charles Nankivell and Dr Pitre Anderson worked at BBH where the surgical unit had a RACS training position and was extremely well run.

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Signed

Deponent

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5. I was completing my last six months of the advanced general surgical training in 2000 at the Royal Brisbane Hospital when I became aware that Dr Anderson had been forced to resign from the BBH. This created a one in one on call for Dr Nankivell. I was approached by the Director of Surgery at Royal Brisbane Hospital who asked if I would help Dr Nankivell out for a few weeks following which I went and worked at BBH for two weeks supervised by Dr Nankivell.
  
6. In 2001 I applied for, and was appointed to, the position of Permanent Full Time Staff specialist in Surgery with the Bundaberg Health Service District. The Credentials and Clinical Privileges Committee granted me clinical privileges in general surgery including gastroscopy and colonoscopy. In June 2001 I was offered and accepted the position of Temporary Director of Surgery at BBH. I occupied that position until my resignation in November 2002. Both of these positions required qualifications appropriate for registration as a specialist in surgery in Queensland. Annexed hereto and marked with the letters **SPB 1**, **SPB 2**, and **SPB 3** is a copy of the letter of appointment, a position description and the clinical privileges letter respectively.
  
7. During the course of my tenure a number of issues arose in relation to the management of, and medical services delivered at, BBH, in particular, the surgical workload and the lack of resources that the Department of Surgery had at the time.

**Dr Pitre Anderson**

8. I was aware of ill will existing between Management of BBH and Dr Anderson. This is borne out on a tape recording I have of a meeting at which Peter Leck, the District Manager, and Lyn Hawken, the Acting Director of Medical Services was present. I was told at this meeting, amongst other things, that I could obtain help with the enormous workload from outside the hospital from anyone except Dr. Pitre Anderson.

Annexed hereto and marked with the letters **SPB 4** is a copy of a transcript of that meeting.

### **Preventable Death Complaint**

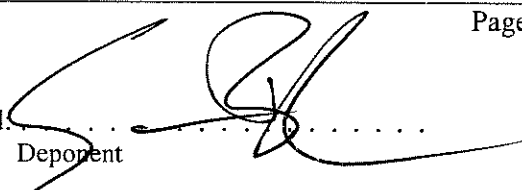
9. I forwarded a letter dated 13 October 2002 to Dr Nydam informing him of a preventable death that was brought to my attention suggesting to him that it required further investigation and management. The matter involved a male patient being sent home by a junior doctor without supervision. The patient had a leaking aortic aneurism and died the next day at one of the private hospitals. I copied the letter to Peter Leck, District Manager, Dan Bergin, Zonal Manager – Central Zone, the Medical Staff Advisory Committee (MSAC) of which I was chairman, Russell Stitz, President of AMA and Rupert Tidmarsh of Australian Salaried Medical Officers Federation of Queensland. Annexed hereto and marked with the letters **SPB 5** is a true copy of the letter together with medical notes of the patient marked with the letters **SPB 6**. I was subsequently also made aware of a second preventable death case due again to a lack of supervision of a junior doctor in the emergency department. Annexed hereto and marked with the letters **SPB 7** is a copy of the case notes of the patient **P448**

10. At the November MSAC meeting my letter was tabled and discussed in Correspondence. I was told by Dr Nydam, in response to the letter **SPB 5**, that the Bundaberg Hospital District did not take kindly to me going outside the circle of management with our problems. I told him that I had not received an appropriate response and that I believed management was not listening to my concerns about patient safety issues this time and in the past. Annexed hereto and marked with the letters **SPB 8** is a copy of the agenda for that meeting. I do not have a copy of the minutes which I recall did not contain any reference to Dr Nydam's response to the letter referred to.

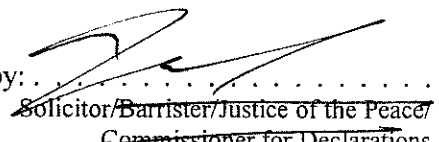
**Director of Surgery**

11. Dr Charles Nankivell sent me a copy of a letter on 29 October 2001 where he explains to the Director of Surgery at Royal Brisbane Hospital that he is leaving Bundaberg Hospital, and therefore, will not be able to supervise an accredited Surgical Trainee the following year. In order to have an accredited trainee it is necessary that the teaching hospital has a minimum of two Australian trained surgeons to supervise the trainee.
  
12. I was then offered the position of Acting Director of Surgery, and on 2 November 2001 I wrote a letter saying that I would accept this under the following conditions. One of them was a salary increase, one of them was the current 1 in 2 on call roster remained in place, but hospital management was to plan to aim for one in 3 on call to avoid professional burn out. Other requests involved correcting the lack of supervision of junior medical staff in the emergency department and a medical education officer for the junior medical staff. Annexed hereto and marked with the letters **SPB 9** is a true copy of that letter.
  
13. I had asked for certain conditions before accepting the position of Acting Director of Surgery. I had a meeting with Peter Leck on 16 November 2001, and did not receive any subsequent written confirmation of our discussions as requested. Annexed hereto and marked with the letters **SPB 10** and **SPB 11** are copies of two further letters dated 21 November 2001, and 28 November 2001 respectively, requesting a written response to my initial letter (2 November 2001). The last letter included my resignation. This then stimulated the meeting between Peter Leck, Lyn Hawken and myself on 30 November 2001 which I taped with their consent, referred to above.
  
14. I also asked that some of the sub-standard and dangerous surgical instruments that were in the operating theatre be repaired or replaced immediately. We had had issues with rusty instruments in some of the

Signed.....  
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packs. Annexed hereto and marked with the letters **SPB 12** is a copy of correspondence concerning this issue.

15. Certain surgical equipment which is standard in metropolitan public hospitals and used in procedures such as, bowel surgery, stomach surgery and thyroid surgery was not available at Bundaberg Base Hospital. Whilst I was at Bundaberg Hospital I did not ever perform an oesophogectomy or a Whipples procedure. The most complex surgery that we performed was bowel surgery and gastric surgery for cancer and diverticular disease, and the whole gamut of trauma surgery.
16. The intensive care unit at Bundaberg Base Hospital was not run by intensivist but by anaesthetists, and accordingly the level of post operative care for very complex procedures that are performed in tertiary hospitals was not available. Very complex procedures, such as oesophogectomy and whipples should be done in specialist units to ensure optimum patient outcomes. On numerous occasions I transferred patients to the Royal Brisbane for surgery such as this.
17. In 2002 as Director of Surgery I was given a self assessment mandatory criteria for our department, which was a quality assurance document we had to fill out to be returned to Corporate Office by Peter Leck. Dr Carter had to complete one for the Anaesthetic Department. Annexed hereto and marked **SPB 13** is a copy of the anaesthetic audit, prepared by Dr Carter, which is very unfavourable and was considered overly critical of the hospital and he was asked to re do it. Annexed hereto and marked with the letters **SPB 14** is a copy of an email where Dr Carter and myself are criticized for our assessments.

### **Elective Surgery**

18. As a result of the elective surgery funding program hospitals have to strike a balance between how much time an operation takes on average, and how many weighted separations that operation is worth. More

complicated operations have a higher level of weighted separations, then there is an incentive to perform more complicated operations. However, the other issue is about the amount of time an operation takes which also can impact on the number of surgeries that can be performed in a particular year.

19. For example, in Bundaberg there was a push to do skin cancer surgery when it looked like we were not going to meet our targets because you can get a large number of operations done in a very short period of time, thus increasing the amount of surgery done, hopefully meeting elective surgery targets and therefore receiving the allocated funding.

20. I recall attending a meeting where there was a discussion about a business case on utilization of the operating theatres at the Bundaberg Base Hospital. This business case as I recall, was prepared without consultation with the Medical or Nursing staff in the operating theatre. As I recall, it was prepared by the District Manager, Mr Peter Leck and the Director of Nursing, Glenis Goodman. The business case was prepared because the hospital executive wished to increase operating theatre utilization. However, the business case's proposed benefits were "realizable savings will occur with the employment of fewer nursing staff in theatres. This saving is estimated at \$144,649 per annum". Less theatre nurses meant more surgery was cancelled and rescheduled.

21. The first that the operating theatre staff were consulted regarding this business case was when the completed document was presented to us.

### **Resignation from Bundaberg**

22. Following my resignation in November 2001 there was some coverage in the local media about my resignation. At the time, I recall that there was a country cabinet meeting occurring in Bundaberg shortly after my resignation.

23. Following the coverage in the media, I was called into a meeting with Lyn Hawken Acting Director of Medical Services and Peter Leck, District Manager. Peter Leck passed on to me that the Director-General, Robert Stable, was not happy with the media embarrassment. Peter Leck said to me that Queensland Health is a large organization and the Director-General will protect the organization. He said we don't want to see your career damaged. I asked whether this was an implied threat. I received no answer to that enquiry. After that meeting I informed Dr Charles Nankivell of the perceived threat and rang the AMA and two executive members of the Queensland Committee of the College of Surgeons to inform them and ask them for advice. I subsequently traveled to Brisbane on 11 December 2001 to further brief the President of the Queensland AMA on the issues at Bundaberg Base Hospital. He informed me that he organized an urgent meeting with the Director-General. A copy of the letter from AMA about these matters is annexed hereto and marked with the letters **SPB 15**.

24. When the Director-General came to Bundaberg for the country cabinet meeting I was contacted by Peter Leck. He advised that the Director-General wanted to meet with me to discuss the Bundberg Hospital issues. I refused to meet him by myself, and told Peter Leck that the Director-General needed to meet with all senior clinical staff as there were multiple issues needing discussion.


25. I attended a meeting with the Director-General, Rob Stable in early December 2001. At that meeting there were many senior clinicians including Dr Peter Miach, Dr John Joiner, and Dr Charles Nankivell. Peter Leck was also in attendance at that meeting. At the meeting, there were concerns expressed by Dr Charles Nankivell and myself about the resources and level of surgical services. I remember Dr Charles Nankivell handing Robert Stable a document about the surgical issues and Robert Stable throwing a folder to me demonstrating increased funding of 7% to the Bundaberg Health District. Dr John Joiner suggested that Queensland

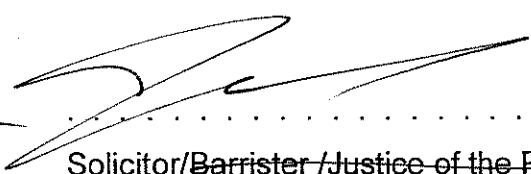
Health re-employ Pitre Anderson to recommence a urological service. Dr Stable advised in the middle of the meeting that he could be re-employed as a visiting medical officer in urology only.

26. This surprised me as demonstrated in my transcript of the meeting that I had with Mr Leck and Dr Hawken that the policy of Queensland Health and the Bundaberg Health Service District was not to employ Dr Anderson ever again.

Sworn on the 4th day of October 2005

at \_\_\_\_\_ in the presence of:

  
Deponent

  
Solicitor/Barrister/Justice of the Peace/  
Commissioner for Declarations