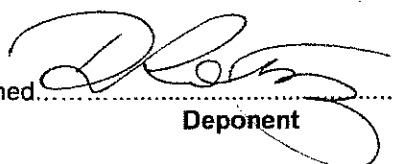


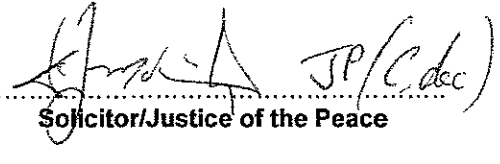
# QUEENSLAND PUBLIC HOSPITALS *Commission of Inquiry*

## STATEMENT OF COLIN ROBERTS

I, **COLIN ROBERTS** of an address known to the Commission makes oath and says as follows:

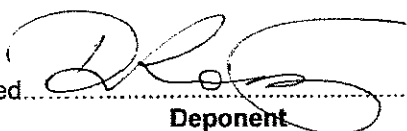
1. I was employed within the Surgical Access Service as Principal Project Officer – Funding and Incentives from August 2002 until January 2005. My role included monitoring surgical activity, negotiating targets and funding allocations with the Zonal Management Units, and reconciling funding payments to Districts participating in the Queensland Health "Surgical Access Program".
  
2. I commenced with Queensland Health in 1987, working in hospital finance, payroll, and project management roles at Royal Brisbane, Toowoomba, and The Prince Charles hospitals, developing a reasonable knowledge of hospital financial management. From 1993 I have worked with hospital electronic database systems exclusively, in the areas of case mix activity and costing and clinical benchmarking and costing.
  
3. I have detailed knowledge of the "SATR" corporate database containing information on waiting list patients and coded morbidity data, and the Transition II clinical benchmarking system, and of the "Crystal Reports" business information software. Both these systems contain date time stamps of patient emergency department presentations, inpatient admissions and discharges, and of when entries were made within the Elective Admissions Management module.

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Deponent

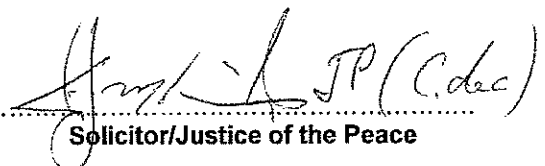
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4. In my previous role implementing the Statewide Transition II system, I developed automated audit reports for use by Districts to ensure data quality and integrity. Prior to my commencement with Surgical Access, the unit had no expertise in this area.
5. Districts participating in the Surgical Access Program submitted monthly reporting (the "Surgery Snapshot") showing progress towards annual activity targets. This report was the primary tool used when making funding allocation and adjustment decisions throughout the financial year.
6. During June to September 2002, industrial action was taken by District nursing staff, and by Visiting Medical Officers in response to national issues of medical indemnity. This particularly impacted upon elective surgery, with significant loss of theatre sessions during this period. Some Districts, such as Sunshine Coast, had very limited surgical services until late September.
7. In early 2003, surgery snapshots indicated some Districts, including Sunshine Coast were reporting elective surgery meeting or exceeding original annual targets. This was accompanied by a substantial decrease in the amount of emergency surgery being reported. This result was contrary to what would be expected given the very limited elective surgery performed during the first quarter. The total surgery reported as achieved was also substantially below negotiated targets.
8. By comparing surgery snapshots submitted during previous months, it was apparent that cases previously reported as emergency surgery were now being reported as elective surgery.
9. In March 2003, the Manager, Surgical Access Service (Gary Walker) and I met with the General Manager Health Services (Dr Steve Buckland) and

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informed him of our concerns that some Districts were "gaming" in order to maintain the full amount of allocated funding for additional elective surgery.

10. On 9 April 2003, Dr Buckland forwarded a memo to all District Managers reinforcing his expectation that total surgery targets be met, as well as elective surgery targets.
11. During July of 2003 I conducted audits of electronic medical record and morbidity data at hospitals participating in the Surgical Access Program. The focus of this investigation was to ascertain whether the electronic records of patients presenting to emergency departments, and who later proceeded to theatre, were being amended from "emergency" status to "elective" status in order to maximise funding.
12. This initial audit was instigated by;
  - (a) Variations between progressive reports of achieved activity each month, where totals for prior months had been revised upwards for elective surgery
  - (b) Analysis of activity trends for past and current years, showing reductions in emergency surgery with accompanying increases in elective surgical activity
  - (c) Contradictory evidence from emergency department information systems showing increasing presentations during this same period
13. National guidelines on elective and emergency classification are not well defined, and rely on a clinical judgement as to whether admission could be delayed by 24 hours if required. Under the Elective Surgery Business Rules 2002/03, an elective surgery patient was defined as an elective admission, with an urgency category between 1 and 3, within included surgical specialties, grouped to a surgical Diagnosis Related Group. In order to meet the second and third of these criteria, the patient must have been placed on an electronic waiting list.

Signed



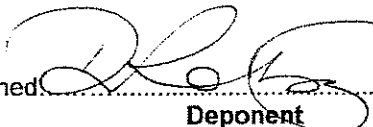
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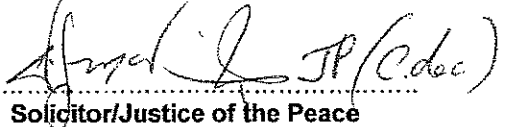
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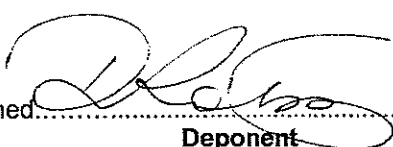
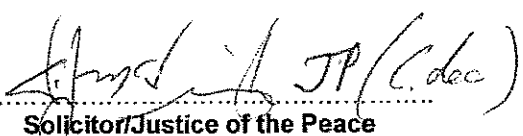
14. Elective admissions were eligible for additional funding if base activity was exceeded, whereas emergency surgery admissions were not. Funding for non-elective surgery was separately provided to Districts within base budget allocations.
15. My investigations were confined to those Districts where presentations had initially been recorded as emergency, and had subsequently been changed to elective status after admission. This was able to be ascertained by cross-matching data from three independent databases.
16. On 30 July 2003 I prepared a submission ("Reclassification of Emergency Presentations as Elective Surgery") for the General Manager, Health Services (Dr Steve Buckland) advising him of the outcomes of the initial audit, and requesting approval to undertake more extensive investigations into those hospitals showing significant volumes of elective surgery cases admitted through emergency. This submission was signed off by the Manager, Surgical Access Service (Gary Walker), and the Manager, Procurement Strategy Unit (Dr Glenn Cuffe).
17. On Thursday 29 September 2005 officers of the Commission showed me a version of that submission. On perusal of that version of the submission I see that it is different to other versions I have seen of it in one respect. Apart from the notations and signatures by Mr Walker and Mr Cuffe appearing parallel to their names, I have not seen any other notations on the front page of that submission before. I do not recognise in whose handwriting these extra notations are made.
18. On Friday, 15 August 2003, Mr Walker and I were requested to discuss this submission with Dr Buckland in his office. I recall at one stage during that meeting that Dr Buckland said, referring to the 30 July 2003 submission, "Why

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the fuck did you put this in writing?" This recollection is quite clear, as I was surprised by the vehemence of his reaction. I do not specifically recall whether Dr Buckland expressed concern that the document might be accessed under *Freedom of Information* legislation. However, I was aware that around this time the State Opposition and the Courier Mail had been making quite a number of applications under that legislation. I was also aware of a tacit understanding within Queensland Health that employees should be careful not to put into writing sensitive material that might be damaging to the government. I was aware that apprehensiveness about applications for documents was most acute in respect of documents produced by the Surgical Access Service. This is because the Surgical Access Service produced highly sensitive documents.

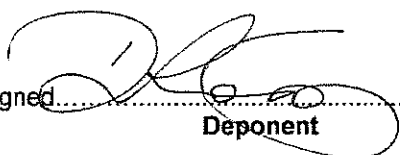
19. The rest of the meeting with Dr Buckland on 15 August 2003 was reasonably amiable in tone. Dr Buckland agreed the issues identified in the submission dated 30 July 2003 were significant and verbally approved further investigation. We all discussed the steps that should next be taken. At no stage during the meeting did Dr Buckland say he was displeased that he could not see on the face of the submission evidence of consultation with, and approval from, the Zones or Districts.
20. It was suggested to me on 29 September 2005 by officers of the Commission that Dr Buckland was displeased with the submission dated 30 July 2003 because it did not show, on its face, that it had been subject to consultation with, and approval from, the Districts and the Zones. It was also suggested to me that this apparent lack of consultation and approval was contrary to repeated instructions by Dr Buckland that such consultation and approval take place. To clarify, the directions to which I have been reminded of only applied in respect of submissions which had financial implications. The submission dated 30 July 2003 had no such implications because, in effect, it merely briefed Dr Buckland on the state of investigations in respect of reclassification

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of emergency surgery up to that time, and to recommend that responses be sought from the Districts and further audits be undertaken.

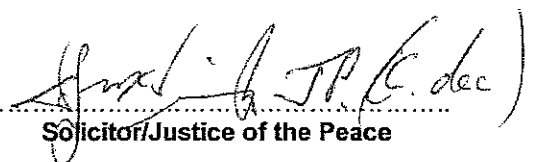
21. Shortly after our meeting with the GMHS, Dr Cuffe came to Mr Walker's office and instructed Gary and myself to ensure that hard copies of the submission were removed, and that electronic files were also removed from the Queensland Health network. Dr Cuffe informed myself and Mr Walker that Dr Buckland had ordered that such action be taken. I have never received a similar direction to destroy a formal departmental document during my employment with Queensland Health.
22. I immediately destroyed all hard copies of the 30 July 2003 submission in accordance with the above direction. However, I interpreted the direction to remove the submission dated 30 July 2003 from the Queensland Health network as allowing the retention of an electronic copy provided it was not accessible or visible to other Queensland Health staff or external agencies. Accordingly, I removed the submission from the network and placed a copy on my hard drive. I later reconsidered my interpretation, and deleted the copy from my hard drive after burning it to CD. By that stage, I understood Dr Buckland's original direction was that **all** hard and electronic copies of the submission dated 30 July 2003 be destroyed.
23. An electronic database ("RecFind") was used to track all submissions and briefing notes within QH. In the week following Dr Cuffe's instruction, a search of "RecFind" showed no record of the submission, including information on its current status, location, or any notations by the GMHS.
24. I have never heard Dr Buckland himself mention giving instructions that the 30 July 2003 submission documentation be destroyed.
25. Over the following five weeks further electronic audits were undertaken.

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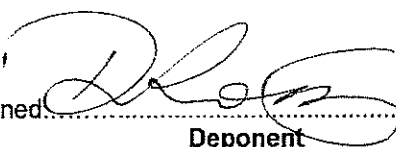


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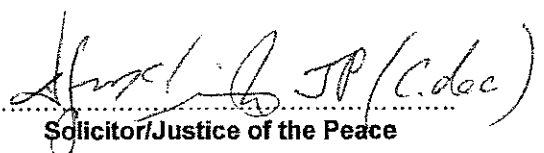
These concentrated on matching records between the Transition II and SATR databases to identify patients who were recorded in independent Emergency Department systems as triaged presentations, that were recorded on the admissions database as "elective". I then cross-matched these records with Elective Admissions entry date/time stamps to identify those patients added to electronic waiting lists at, or following admission.

26. A reasonable person would expect that a patient admitted for elective surgery had been referred from an outpatient clinic appointment, a specialist referral, or an inter-hospital transfer. It would also be reasonable to expect that patients booked for elective surgery would be entered to electronic waiting lists prior to admission for the surgical episode. The intention of the audits I performed were to identify cases where these reasonable expectations were not being met, and where timing of data entry to the waiting list module indicated the admission was unplanned.
27. From 29 August 2003 to 3 September 2003 interviews were conducted between Mr Walker, District Management, Zonal Management Units and myself for those Districts showing significant volumes of elective surgery cases not present on waiting lists prior to admission, but claimed from additional elective surgery funding. The purpose of these investigations was to discover if Districts had instigated deliberate procedures to shift surgical activity from emergency to elective in order to attract additional payment for work already funded as part of base activity.
28. On 11 September 2003 I prepared another submission ("Retention of Quarantined Elective Surgery Funds") outlining the investigations undertaken and their outcomes. I hand delivered this submission to Dr Buckland's office, but not directly to Dr Buckland. I do not recall if I handed the document directly to Dr Buckland's personal assistant, or placed it in her "in" tray. This delivery method was contrary to standard Departmental procedure, but was commonly used to expedite rapid approval of submissions.

29. This submission is not included within departmental files, or currently listed on RecFind. I do not recall or have any record of receiving the stamped returned submission with any notation by Dr Buckland, as was customary with all other submissions I prepared.
30. This submission has not previously been presented to the Commission of Inquiry.
31. The key findings of the audit process were that in some hospitals, the overwhelming majority of reclassified cases were retrospectively added to electronic waiting lists in order to meet funding criteria. As well as maximising funding, the addition of these cases misleadingly indicated hospitals were rapidly treating Category 1 and 2 cases from elective surgery waiting lists, and inflated quarterly published elective surgery throughput volumes.
32. The submission sought approval for recommendations including amendments to Elective Surgery Business Rules, financial penalties for three Central Zone Districts, and future reductions in elective surgery activity targets and funding for five hospitals.
33. Following presentation of this submission, the Central Zonal Manager (Dan Bergin) provided a briefing note to Dr Buckland (BR019449 26/9/2003) advising against the application of financial penalties to the three Districts. This indicates the submission I prepared was provided to the Central Zonal Manager by Dr Buckland for comment.
34. In notations on this brief, Dr Buckland requested clarification of the criteria within the ESBR 2002/03.
35. On 8 October 2003, I prepared a brief to Dr Buckland (BR019524 18/10/2003) in response to Mr Bergin's, advising him of the principles applied during the audit process, and its intention. This brief also identified the likely implications

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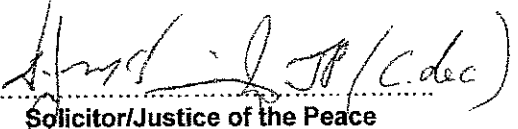
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for dedicated elective surgery funding allocations if this practice continued, and was adopted by other participating Districts.

36. On 5 September 2003, Dr Robert Stable resigned his position of Director General, with effect from January 2004. Dr Buckland was appointed as acting Director General following Dr Stable's departure on 31 October 2003.
37. On 8 September 2003 I presented a submission (SB018570) through my line management containing amended ES Business Rules for 2003/04. Included was a clause requiring elective surgical patients to be present on an electronic waiting list prior to admission in order to qualify for funding. This submission was endorsed by Zonal Managers from Northern and Southern. The ZM Central declined to endorse the submission, and it was subsequently not approved by Dr Buckland.
38. On 26 September 2003 I prepared a second Business Rules submission (SB 018848) without this clause. This was endorsed and approved.
39. A number of other submissions, including final financial adjustments for activity achieved during 2002/03 and allocation of targets and funding for 2003/04 were contingent upon resolution of the reclassification issue. On 2 October 2003 I prepared a document identifying these submissions, and clarifying the probable outcomes from both approval and non-approval by Dr Buckland. Mr Walker met with Dr Buckland, and advised me that these decisions were being considered. ✓
40. The resolution of the reclassification issue was pursued by Dr Cuffe. On 4 November 2003, Dr Cuffe requested a briefing note setting out all facts relevant to the audits and interviews conducted with Sunshine coast. I provided this through my line manager, Mr Walker. ✓
41. On 12 January 2004, a submission (SB019302) was prepared by Gary Walker

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Deponent

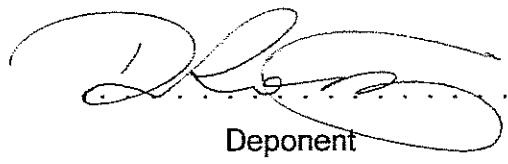
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recommending application of a financial penalty of \$600,000 to Sunshine Coast HSD, the District using this practice most extensively. This submission was approved by Dr John Scott in his role as Senior Executive Director, Health Services Directorate.

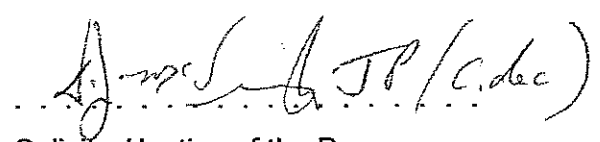
42. To the best of my knowledge, no corrective action was taken to reverse retrospective changes to the elective status field for any cases identified during my audit process. It is my firm belief that a significant volume of activity claimed as "additional elective surgery" during 2002/03 could not be considered elective by any reasonable interpretation. This activity was reported to government as part of that purchased from designated elective surgery funding.
43. It was suggested to me on Thursday 29 September 2005 by officers of the Commission that in early 2004 Deborah Miller had informed Dr Buckland that the 30 July 2003 submission had been seen on Gary Walker's desk. It has also been suggested to me that upon learning this Mr Walker spoke to Dr Buckland about same. I have no specific recollection of such events. However, I do recall that some time after the 30 July 2003 submission Mr Walker was required to attend Dr Buckland's office. I also recall Mr Walker expressing some concern about the purpose of the meeting. I am certain that Mr Walker never informed me that he had kept a hard copy of the submission.
44. During 2003/04 the incidence of emergency reclassification significantly declined in those Districts audited at the start of the year. However 2004/05 surgery snapshots show a continued decline in emergency and total surgical throughput at Nambour Hospital, accompanied by reported surplus elective surgical activity. During this period Sunshine Coast District was allocated additional funds by Central Zone for increased elective surgical and joint replacement activity from 2004/05 election commitment monies.
45. 2005/06 Elective Procedures Business Rules treat all surgical activity equally, with no distinction between elective and emergency admissions. This effectively removes incentives to reclassify emergency activity, and requires increases in total surgery to qualify for additional funding.

Affidavit sworn on 30 SEPTEMBER 2005  
At BRISBANE

in the presence of:



Deponent



Solicitor/Justice of the Peace

DENIS J. McVEIGH.