Ex 330

Bundaberg Hospital *Commission of Inquiry*

STATEMENT OF Sean Andrew MULLEN

I Sean MULLEN of

the State of Queensland SWORN: in

1. I am an Orthopaedic Surgeon, registered in the State of Queensland and I am a Fellow of the Royal Australian College of Surgeons (Orthopaedics). I have a private practice located at Suite 10, 107 Boat Harbour Drive Pialba Hervey Bay. I was admitted as a Fellow on 01 January 1999. I have been a doctor since 1990 and I have been in private practice as an Orthopaedic Surgeon for a period of five (5) years. I worked at the Princess Alexandra Hospital as a full-time Staff Orthopaedic Surgeon in the employ of Queensland Health for a period of one (1) year.
2. I then moved to my present location at Hervey Bay where I operated in my private practice commencing here in 2000.
3. Before I arrived at Hervey Bay I had made contact with the Director of Medical Services, Doctor Terry HANELT, at the Hervey Bay Hospital and I offered by services to him, should they be required, as a Visiting Medical Officer (VMO) at the Hervey Bay Hospital. My offer was accepted and as soon as arrived at Hervey Bay I took up my position as a VMO Orthopaedic Surgeon at the Hospital.
4. At that stage I was employed as a VMO for two sessions per week with one session as an operating session for 3.5 hours and an outpatient's session for another 3.5 hours. I was paid by Queensland Health for these seven hours per week.
5. At this time Dr. Morgan NAIDOO was the Director of Orthopaedics at the Hospital in full time employ by Queensland Health and he was the superior that I answered to at the hospital. We were the only two senior consultant orthopaedic surgeons working at the hospital at that time. During this period I also did one in four weekends on call and one day a week on call should it be required for emergencies. Dr. Naidoo was responsible for the other periods when I was not there.

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6. Then in 2002 there was an incident when I was doing my ward round on a Wednesday morning with my public patients at the hospital and the Nursing Sister in Charge, Theresea WINTON, asked me if I could see one of Dr. Naidoo's patients who was an elderly lady who had been admitted about 10 days previously with a fractured left arm. The reason I was asked to see this patient was because she had a large wound on her arm which had been made by the bone protruding through the skin. When she had been admitted to the hospital 10 days previously it had been for a simple closed fracture with no wound.
7. I asked why Dr. Naidoo could not see his own patient and I was told that he was not able to be contacted. Sister Winton was really concerned about the health of the patient and the junior medical staff at the hospital had also expressed concern to her about the patient's welfare. The notes recorded relating to this patient reflected their concern.
8. As a result of this I felt obliged to see the patient and I made an examination. I found that there was an open wound with protruding bone that was severely infected and the patient was very sick. The story was that she had had a plaster applied 10 days previously on admission by Dr. Naidoo and because of her dementia she had been moving a lot and the bone had been pushed out through the skin in that period. I saw from the notes that Dr. Naidoo had taken the patient back to theatre when the bone had protruded to place a dressing on it and to put a new plaster on it. In my opinion, this was unacceptable care for this issue.
9. I saw from the notes recorded by junior staff that in the period after he carried out this second procedure staff had difficulty in contacting him to seek advice on further care for his patient.
10. As a result of what I discovered I contacted Dr. Hanelt and I told him that this patient needed to go to theatre immediately and that if I could not contact Dr. Naidoo I would have to do it myself as it had to be carried out immediately in the patient's interest. This was an awkward moment with regard to taking over another Doctor's patient without his knowledge and I outlined that to Dr. Hanelt and I also brought to his attention that it was my view that the treatment that this patient had received was inadequate as far as Dr. Naidoo's supervision was concerned.

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11. Dr. Hanelt agreed with me and he told me to go ahead with the operation and I assumed from what I had told him that he would now have a role to investigate how this situation with the patient arose.
12. I again attempted to contact Dr. Naidoo again in the interests of ethics and I finally contacted him when he rang me back by phone and indicated that he was not available to do the case and that I should do it in his place. I did not ask him where he was but he made it clear that he was not in the hospital or the hospital area and that I should proceed with the case.
13. I took the patient to theatre that afternoon and it was very difficult to explain to her family what was taking place. I operated and stabilised the situation and subsequently her arm had to be amputated by Dr. Naidoo about two weeks later. There is no doubt that the amputation was caused by the neglect and delay in treatment by Dr. Naidoo.
14. I had raised my concerns about the whole issue with Dr. Hanelt and I assumed that he would investigate the matter. However, nothing happened and there was no other discussion about the issue.
15. As a result of the inaction taken by Dr. Hanelt I indicated to him that I was going to take a period of time off away from the hospital with regard to my elective work there. I did this mainly because the situation at the hospital was becoming untenable for me as a professional in my relationship with Dr. Naidoo and I was fearful of the supervision conditions at that stage at the hospital regarding Dr. Naidoo's supervision of the junior staff. He subsequently wrote to me indicating that he was aware of the reasons why I took this action.
16. About six or nine months later I approached Dr. Hanelt again and indicated to him that I would be prepared to return to my session work again at the hospital as long he could assure me that adequate supervision could be provided for the junior staff. He told me that that would be fine, he would be happy to have me back and that the supervision problem with Dr. Naidoo had been corrected without telling me what had occurred. I took his assurances on face value and I returned to my elective sessional work at the hospital similar to what I had been working before. I think I worked four sessions per month.
17. When I first went back Dr. Naidoo explained to me that there were two Fijian doctors who were being employed to work at the hospital as Senior Medical

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Officers (SMO) in Orthopaedics. From this I assumed that they would be supervised doctors working under the direction of myself and Dr. Naidoo. I assumed that they would have had basic qualifications in orthopaedics with no advanced specialist qualifications. The impression that Dr. Naidoo gave me that they would be fully supervised while working at the hospital.

18. The two doctors, Dr. Damodaran KRISHNA and Dr. Dinesh SHARMA, arrived shortly after with Dr. Krishna arriving either in late 2002 or early 2003.
19. The first problem that arose with the new arrivals was that shortly after they arrived they appeared on the hospital roster as the consultant surgeon on call for the District. This indicated that they would be working completely unsupervised in the care of patients which is a situation, because of the lack experience and qualifications, that should never have been allowed to arise. When I saw this I went to Dr. Hanelt and I brought this to his attention and I thought that it was inappropriate that the new doctors had been placed on the roster as consulting surgeons when they did not have those qualifications in Queensland.
20. He indicated to me that it was not a problem and that he was very comfortable with that position. We agreed to disagree with this situation and as far as he was concerned that was the finish of the matter.
21. My understanding of these two doctors was that they had been appointed to Hervey Bay Hospital as an Area of Need Hospital as SMO's to be working under direct supervision at all times. At that same time there was an article in the local paper inserted by Queensland Health where Mr. Michael ALLSOP, the District Manager of the Hospital, indicated that there were two new orthopaedic surgeons starting in the region and were employed at the hospital.
22. What happened next was that I was starting to get more and more frustrated with the lack of action in what I perceived to be a dangerous situation for patient safety given the lack of supervision of these non-qualified doctors. The other problem that arose at that time was the large amounts of leave that Dr. Naidoo was taking at that time, often four to six weeks at a time, where the two new doctors were left with no supervision at that time and were acting as autonomous surgeons and treating and operating on patients as if they were qualified surgeons without any supervision.

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23. The final incident that made me take this further was that I had a situation develop when on an occasion in 2003 I was contacted at about 5.30.p.m. by Dr. Hanelt and he informed me that the nurse in charge of theatre, Sister Liz WILMONT, to discuss a case that had developed problems in the operating theatre. He asked me to please attend to give assistance as Dr. Naidoo, as was very frequent, was unable to be contacted and was not able to come in to assist.
24. I went to the hospital to discover that a patient who had been involved in a motor bike accident and who had received a fractured femur in his right leg was in the process of being operated on by the two new doctors. They had been instructed by Dr. Naidoo to perform the surgery but no supervision was supplied.
25. The case had started at 1.30.p.m. and Dr. Naidoo should have been on the hospital grounds to supervise what they were doing. I found that the patient had lost a lot of blood and the femur had been subsequently significantly fractured during a procedure where a nail had to be inserted into it. I took over the care of the patient and I also treated a fractured ankle that the patient had and completed the operation.
26. I indicated to Dr. Sharma after the case that I thought he should have indicated to Dr. Naidoo that he was not happy to do the case without supervision and I thought that it was not in his or the patient's best interest for him to carry out such an operation without supervision. He agreed with me and he also expressed concern about the lack of supervision that he was getting from Dr. Naidoo.
27. This was the point when I contacted the Australian Orthopaedic Association (AOA) and I spoke with the President, Dr. Chris BLENKIN, and I indicated to him that I was not happy in the way that local management was dealing with the serious problems that were occurring and I felt it was time that it was brought to the attention of AOA.
28. I did this because I had been to management, Dr. Hanelt, several times before with issues and no action had been taken. I also felt that my unhappiness with these problems was causing animosity towards me from management, both Dr. Hanelt and Michael Allsop, because of complaints and outspokenness about the way that these unqualified doctors were being used in the system. My feelings as to why they allowed this to continue was that there were not enough Australian qualified doctors to fill the positions needed and that they had very poor control of Dr.

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Naidoo's activities in his role as a full time orthopaedic surgeon. These are the reasons why I believed that this situation was allowed both to continue and occur.

29. In desperation I went to the AOA which I felt, personally, should not have had to be done if the matters that I had raised had been addressed in the appropriate fashion by hospital management.
30. Apart from the two incidents that I have highlighted there were a number of other incidents involving the two doctors and the lack of supervision and interference by management that drove me to make contact with the AOA.
31. There was a case of a child with a poorly treated distal radial fracture (wrist fracture) with a lack of supervision in the after care and this child subsequently required major reconstruction surgery in Brisbane with a hand and upper limb surgeon, Dr. Peter ROWAN. I am not sure which of the two new doctors attended to this injury originally but the child was treated in an unsupervised clinic that I am aware of and I know that Dr. Naidoo did not supervise that clinic. I later saw this child privately and arranged for the Brisbane treatment.
32. There was a case of lady with a big toe fusion that she alleged was performed without her consent and the result has lead to significant disability and has been treated in Brisbane by Dr. Blenkin. This procedure was carried out by Dr. Krishna, unsupervised, in the operating theatre at Hervey Bay and there was no specialist supervision followed up which should have been done by Dr. Naidoo. This type of operation should never have been performed by Dr. Krishna without supervision.
33. There was a lady who had a non-union of distal tibial (leg) fracture who could be looking at amputation in the future whose care was delayed for six months after surgery even though the fracture had not healed. She has since been referred to the limb and reconstruction clinic at the Royal Brisbane Hospital by myself. Again, I am not sure which of the two doctors carried out this operation but I am aware from my conversations with the patients that they were not carried out by Dr. Naidoo and I am informed by them that the operations have been carried out by "one of the Fijian doctors." The only Fijian doctors are Dr. Krishna and Sharma.
34. There is one other case that Dr. Krishna carried out unsupervised in 2004 when a man had an unstable fractured hip that was very unstable and inadequate fixation was achieved in theatre. Subsequently, I was asked to see him in my private rooms nine months later by his GP. At that time he had a non united fracture with

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collapse of the femoral head and failure of his fixation. He reported to me that he had told Dr. Krishna several times in the outpatients over the nine month period that he had severe pain and could not bear weight on the hip. No action was taken and there was no supervision of these outpatients by Dr. Naidoo. The patient subsequently required a six hour joint reconstructive surgery that could have been avoided by appropriate earlier supervised treatment.

35. After all these events I had had enough and I was frustrated so I made the contact with the AOA and this resulted in an investigation being conducted on the Orthopaedic services provided at the Hervey Bay Hospital with the investigators being appointed by the AOA being Doctors North and Giblin.

36. After the investigation I continued to work in the hospital while waiting for the results of the investigation and any changes that it may have generated and during this period I offered, on several occasions, to provide a second on-call service for the two Fijian doctors. This meant that I would be available every second night to be a point of contact for the doctors and to cover and supervise any difficult cases that they may encounter. This offer was rejected by Dr. Hanelt and Mr. Allsop even after I offered to do it for free if cost was an issue. I felt that the reason for this rejection was that they just could not recognize that these doctors were not able to operate without supervision.

37. I then had an incident at work that involved Mr. Allsop. I was on call for the public hospital for a weekend when a 90 year old lady was admitted on the Friday night with a fractured hip. I felt that she required surgery that weekend to minimise her chances of death due to her chronic chest condition and advanced age. Evidence based medicine deems that early surgery leads to better outcome. Hence I booked her surgery for 4.30.p.m. on the Saturday afternoon after a medical review was performed. I organised for an experienced anaesthetist to aneaesthetise her due to her significant chest problems, Dr. Gerry MEIJER. The staff were available to work in the theatre until 6.p.m. to assist me in this procedure. The family of the patient were informed of these arrangements.

38. Then at 4.p.m. the nursing staff in theatre informed me that the case had been cancelled by Mr. Allsop without his ever contacting me about his decision. I rang him immediately and he informed me that a senior nursing member, who had not seen the patient, had advised him that this was not an urgent matter and could be

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carried out the following week. I believe that the nursing member was the nurse in charge of the theatre complex who was not working that weekend. I told him that I was the best person to discuss the urgency of the care of the patient and this had not been done.

39. He was aggressive and hostile towards me on the phone and I was unable to convince him of the seriousness of the case. I eventually convinced him to contact the anaesthetist who confirmed the urgency of the situation and Mr. Allsop then changed his mind and the procedure was rebooked for the following morning. I spent 1.5 hours trying to do my job and I had never had an administrator interfere with patient care in the past. The urgency of the case was subsequently confirmed by Dr. Allan JONES, the physician at the hospital, who looked after the patient's chest problems.
40. I have subsequently felt bullied and harassed by the administrators Dr. Hanelt and Mr. Allsop due to my concerns over the orthopaedic patients at the hospital. My ability to do my job has been made more difficult by the obstacles placed in my path by both of them.
41. The next thing that happened was the release of the AOA report and I subsequently resigned as a result of the recommendation to cease orthopaedic surgery at the hospital and I am now awaiting further recommendations from the AOA regarding my ability to provide such care at the hospital.
42. I have since been aware that Dr. Simon JOURNEAUX, and Orthopaedic Surgeon from the Mater Hospital has been asked by Queensland Health to undertake clinics to assess patients who feel that they may have a problem with their treatment under their care of the SMO's at the hospital that they have received in relation to orthopaedic surgery by them at the hospital.
43. I am of the belief that the actions of the two doctors working without supervision equates to what has occurred at Bundaberg without the mortality incidents occurring but patients being left with permanent disabilities because of inexperienced, unsupervised surgery.
44. It is my view that the two doctors who have caused the matters that I have outlined, and I have no doubt other incidents that I might not be aware of, are not the ones to blame for what has occurred. The problem has been an administration failure allowing the two unqualified doctors to work in an unsupervised environment. It

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was their responsibility, clearly, to have Dr. Naidoo or myself, conduct the appropriate professional and qualified supervision in the interests of patient care and to assist them to become better doctors.

45. I am aware that Dr. Sharma has applied for orthopaedic training for the FRACS and I have been happy to be his referee and I feel that with the appropriate supervised training he could be a very good orthopaedic surgeon in the future. My fear is he will not return to the local district because of the difficulties he has encountered while he has been here.

46. All I can comment about Dr. Naidoo is that his technical work is very good but he does not supervise the doctors appropriately and he is very difficult to contact when required, which is a part of his duty as the Director of Orthopaedics to be available for contact, and that he takes large amounts of leave and that there is no supervision for the Fijian doctors when he is not contactable or is absent on leave. This situation has to be reflected back to management allowing the situation to arise by approving his leave when they know that there is no one to cover the unsupervised doctors.

47. The medical staff that I have outlined in this statement regarding the incidents that I have alluded to will support each of my allegations where they were involved.

48. I am prepared to provide each of the names of the patients that I have referred to on the basis that their names be dealt with in the manner of confidence as provided by the Commission of Inquiry.

49. I am prepared to provide this evidence before the Commission of Inquiry if my evidence is sought.

Affidavit SWORN on 07 June 2005

at Hervey Bay in the presence of:

S. Mullen Sean Andrew MULLEN

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Deponent

W.J. King Wayne John KING

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