

QUEENSLAND PUBLIC HOSPITALS COMMISSION OF INQUIRY

AFFIDAVIT

I, MICHAEL STEVEN DEMY-GEROE of C/- Medical Board of Queensland, Level 19, 160 Mary Street, Brisbane, Queensland, Deputy Registrar of the Medical Board of Queensland states on oath:

1. I refer to my evidence in Commission of Inquiry No. 1 of 2005 ("COI No. 1") concerning the changes to registration procedures brought about through the registration of Jayant Patel. I offer the content of this affidavit to provide a complete overview of the changes to the registration processes of the Board which have variously been placed into evidence in COI No. 1 of 2005 to assist this Commission of Inquiry and outline some further recent developments. It is in amplification of Exhibit 136, the Board's solicitors letter to the COI No 1 of 2005 dated 22 June 2005.
2. The inappropriate registration of Dr Jayant Patel ensued from a number of key factors, being: (a) Dr Patel's fraudulent statements in his applications to the Board; (b) the practice of accepting Certificates of Good Standing ('COGS') or their equivalent from the applicant for registration and not from the registering authority itself; (c) the lack of adequate checking procedures; and (d) workload pressures.
3. The Medical Board of Queensland ('the Board') has fully addressed these causative factors as well as other identified issues in relation to reference checks, practice history, supervision requirements and verification of qualifications.
4. In relation to these matters, the Board has reviewed its staffing structure and application processes as follows:


Signed.....

Deponent





Taken By.....

Solicitor / Justice of the Peace

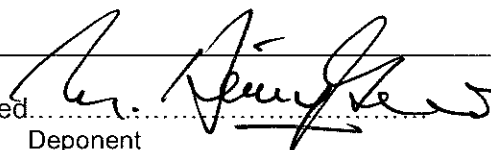



- (a) To enhance the assessment and monitoring of special purpose registrants, the Office of Health Practitioner Registration Boards ('the Office') has established a Special Purpose Assessment Unit ('the Unit').
- (b) The Unit is currently staffed by a team of three permanent administration officers assisted by an additional two temporary administration officers, and is led by an experienced senior officer. The administration officers are responsible for processing applications which are then reviewed by the senior officer prior to referral for consideration by the Registration Advisory Committee and the Board.
- (c) The process for registration applications as incorporated in the application form now requires:
- i. COGS to be provided directly by the registering authority in all jurisdictions in which the applicant has practised and from his/her jurisdiction of training. In addition, a software driven process for searching the Internet about an applicant's disciplinary history is now being used;
 - ii. The applicant to provide a full practice history, in the form of a standard curriculum vitae, from the time of qualification to the time of application and to explain any gaps in the practice history to the Board's satisfaction;
 - iii. The applicant to advise whether he/she has attempted any medical qualifying examination(s) and, if so, the results of that examination(s);
 - iv. The applicant to advise of any skills assessment, bridging program or periods of observership undertaken in any Australian or New Zealand health care or skills assessment facility (and specifically at the Skills Development Centre, Royal Brisbane and Women's Hospital);

Signed 
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- v. The applicant to consent to the Board seeking assessment reports relating to any practice of medicine, periods of observership, bridging programs or assessment of skills undertaken in any Australian or New Zealand health care facility;
- vi. The applicant to acknowledge that making a materially false or misleading representation or declaration in the application is a ground for cancellation of registration and that the giving of materially false information or a document to the Board in connection with the application is an offence punishable with a maximum penalty of AUS\$150,000 or 3 years' imprisonment;
- vii. Queensland Health, if it is the employer, to provide a copy of the appointment letter or offer of employment;
- viii. The employer to certify it has assessed the applicant and, based on that assessment, is satisfied the applicant has the qualifications, experience and capabilities needed for the position;
- ix. The employer to certify, utilizing mandatory reference check questions, that verbal reference checks have been undertaken and that the referees verify; the experience and capabilities of the applicant; and the accuracy and completeness of any information supplied by the applicant in relation to his/her previous employment history and experience during the previous 5 years;
- x. The employer to nominate a clinical supervisor who has current, general, specialist or s.138 registration. For senior doctors, it is required that a Visiting Medical Officer, staff specialist or Director of the specialty department (who is Australian qualified) to be the nominated supervisor;

Signed 
Deponent

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- xi. The clinical supervisor to agree to supervise the applicant and provide the Board any adverse reports as they are identified, and to provide an assessment form at the end of the applicant's approved period of registration
 - xii. The clinical supervisor to provide details as to how the supervision will be provided;
 - xiii. The applicant to organize, from 1 October 2005, provision of a certificate of primary source verification from the International Credentials Service of the US Educational Commission for Foreign Medical Graduates directly to the Board.
5. In addition to the above noted matters, the Board continues to progress the medium term remedial actions detailed in its report to the Minister for Health (as referred to in my earlier Statement to COI No. 1), as follows:
- The outcomes of the review of registration services undertaken by the Office in 2004 have been commenced. A consultant has been engaged to re-design the organizational structure, develop position descriptions and plan the transition from the current structure to that proposed. In addition, a request for offer for the design development and implementation of the new registration and registrant management software system was released on 27 June 2005. It is expected that development work will commence in late October 2005.
 - The Australian Medical Council, of which the Board is a member, has continued to develop an international computer administered screening exam and on-line primary source verification for introduction from July 2006.
6. Other medium term actions focus on the development of pre-registration clinical assessment processes, introduction of mandatory professional development and introduction of the requirement that special purpose registrants become qualified

Signed.....

Deponent

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to the Australian standard within four years of their initial registration by either successfully completing the national certifying exam or gaining the relevant College fellowship. Consultation on the development of these processes and requirements has been initiated.

7. At its meeting on 9 August 2005, the Board adopted draft guidelines for supervised practice relating to International Medical Graduates. The guidelines were subsequently further amended by the Board at its meeting on 13 September 2005. This document (annexed hereto and marked "MDG-1") outlines the levels of supervision proposed as well as the roles of the supervisor in the process.
8. All the facts and circumstances above deposed to are within my own knowledge, save such as are deposed to from information only, and my means of knowledge and sources of information appear on the fact of this my Affidavit.

Affidavit sworn by MICHAEL STEVEN DEMY-GEROE at Brisbane this *third* day of October 2005 before me:



Deponent



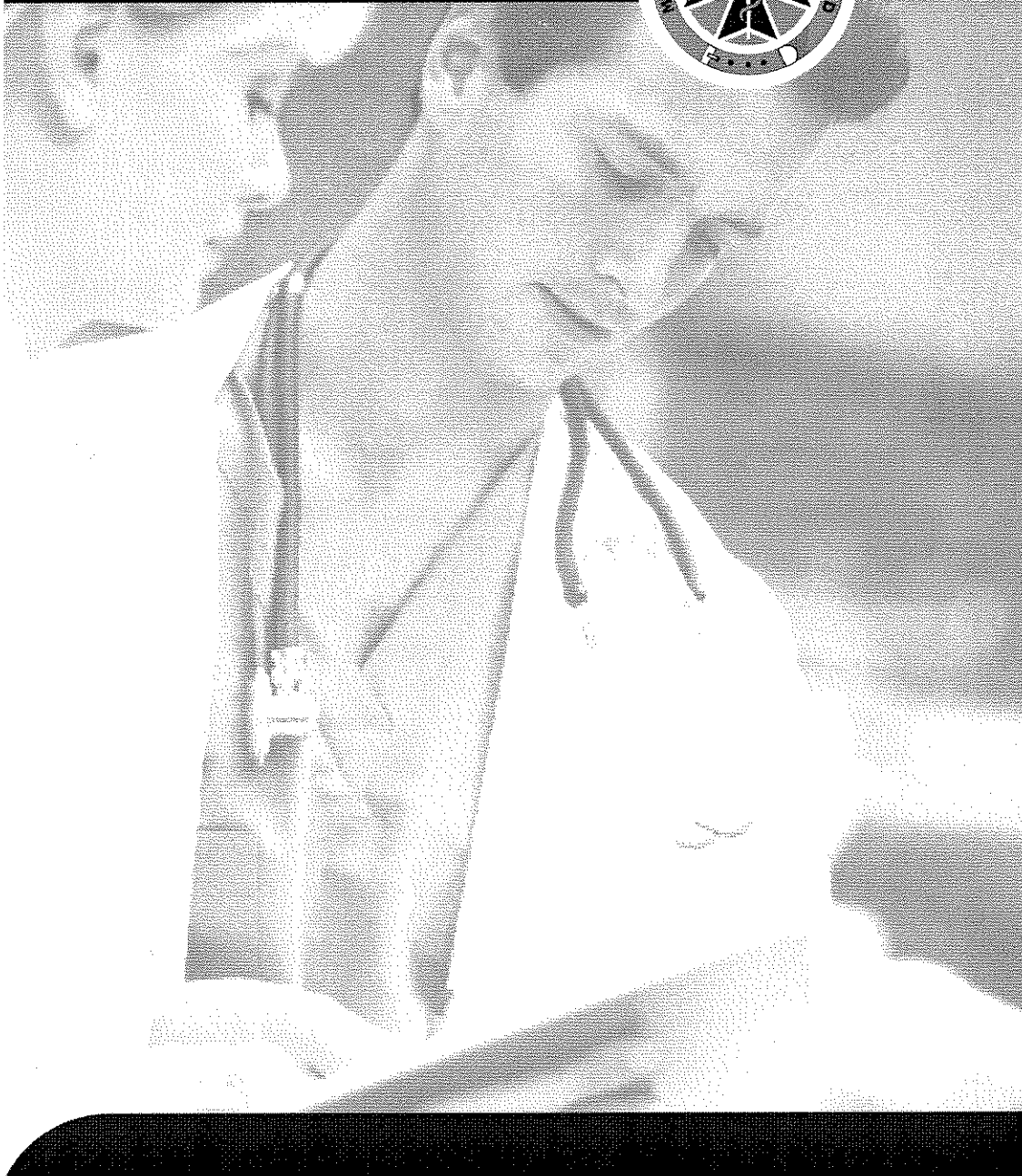
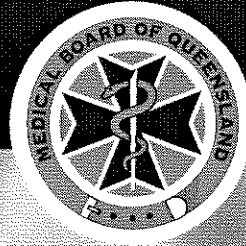
Solicitor/~~Justice of the Peace~~

QUEENSLAND PUBLIC HOSPITALS COMMISSION OF INQUIRY

This is the annexure marked "**MDG-1**" mentioned and referred to in the Affidavit of **MICHAEL STEVEN DEMY-GEROE** dated this 3rd day of October 2005.

"MDG1"

Medical Board of Queensland
**Guidelines for Supervised
Practice**





PURPOSE:

The purpose of this document is to provide guidance to supervisors and to registrants who are required to practice under supervision for other than health reasons¹.

PREAMBLE:

Supervision requirements may apply to registrants in the following circumstances.

1. Graduates of Australian Medical Schools who are registered with internship conditions in accordance with Section 57 of the *Medical Practitioners Registration Act 2001*. Inherent in the "prescribed internship" is supervision of practice. The nature of this supervision is prescribed in the internship arrangements and is not dealt with in these guidelines.
2. Registrants who have given an undertaking to the Board that they will only practise under supervision.
3. Registrants who are required as a condition of their registration to practise under supervision. This may occur in a number of circumstances:
 - a. Registrants other than under 1 who are subject to intern conditions prior to meeting the requirements of general registration.
 - b. Overseas trained doctors who have not completed the Australian Medical Council examinations.
 - c. Registrants who are required to work under supervision as a consequence of poor performance or disciplinary action.



¹For supervision requirements for impaired registrants see "Requirements for Supervised Practice for Registrants on the HAM Program"



LEVELS OF SUPERVISION:

Level 1 Direct Supervision

With Level 1 supervision the supervisor takes direct and principal responsibility for the patient. The supervisor must be available at all times when clinical care is being provided. This occurs mostly with students but may also be utilised to register an individual who has not completed all registration requirements but for whom supervised practice may still be appropriate. For example, where the registrant has not demonstrated adequate command of the English language.

Level 2 Contemporaneous Supervision

With Level 2 supervision the supervisor shares responsibility for the individual patient with the registrant. Thus the supervisor should be in the workplace at all times. The supervised registrant is responsible for ensuring that practice is within the confines determined by the supervisor and that the supervisor is informed of the management of individual patients.

Level 2 supervision is most likely to occur in the circumstances of International Medical Graduates (IMGs) completing pre-registration requirements.

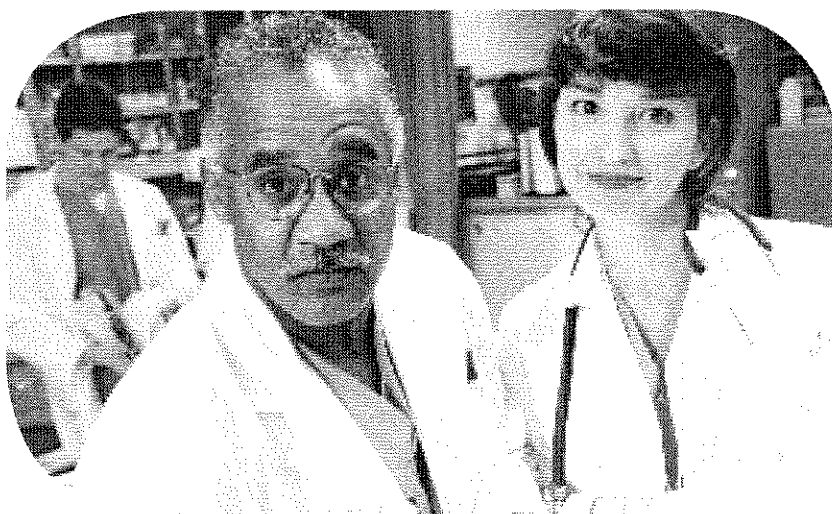
This level of supervision does not include solo practice nor should it include on-call, weekend or home visit work unless on return to work a supervisor is present.

The supervisor should enter into an agreement with the registrant regarding the scope of practice and should ensure there are mechanisms in place in the workplace to monitor the work of the registrant.

The work environment must be such that there is at least general oversight of the registrant's practice by other registered medical practitioners who can give guidance or recognise and initiate action if a threat to patient safety is emerging.

The Board accepts that on rare occasions there may be an exception to the requirement that another colleague be present at all times. For instance, where a registrant is permitted to work on weekends and the only other

colleague who is rostered on is unable to work due to unexpected personal reasons such as illness. The Board does not expect the registrant to withhold treatment to patients. However the registrant must notify the principal supervisor as soon as possible of the circumstances which led to him/her practising unsupervised and also of the services provided.



Level 3 Broad Supervision

With level 3 supervision the supervisor is responsible for ensuring that the practice of the registrant is in accordance with acceptable standards and that there are mechanisms in place to ensure that the registrant is practising at a safe standard. The registrant takes responsibility for individual patient care. The supervisor maintains an indirect responsibility for the patient through ensuring that appropriate safeguards are in place for monitoring performance and referral as required.

Level 3 supervision is similar to that applying to junior hospital staff and applies to general practitioners in group practices under the supervision of a general registrant.

The registrant is permitted to work alone from time to time. The registrant can do home visits and periods of duty that include on-call and after hours. When the registrant is practising alone, he/she must have telephone access to his/her supervisor.





Upon commencing a new position the supervisor and registrant must formulate an agreement in regard to the scope and limits of practice and should meet regularly to monitor practice performance including workload and any significant clinical issues. This agreement may alter over time as the supervisor is satisfied with the progress and performance of the registrant. Thus the extent of supervision will vary over time as the registrant becomes more confident.



Level 4 Distant Supervision

With level 4 supervision the registrant takes full responsibility for individual patients. The role of the supervisor is to provide broad overview of the practice of the registrant (mentoring). The supervisor should put in place mechanisms whereby they may be consulted on an individual patient should the registrant require assistance. In addition the registrant and supervisor should put in place mechanisms whereby an overview of the registrant's practice may be conducted periodically.

This level of supervision may apply to physically remote supervision by telecommunication.

SELECTION OF AN APPROPRIATE POSITION AND SUPERVISOR:

Prior to accepting a position or changing circumstances it is important that the registrant who is subject to supervisory arrangements obtains the approval of the Board in regard to the appropriateness of the position. In addition, if there are any proposed changes to the approved work arrangements (e.g. hours of work, on-call, nature of practice) at his/her current or proposed place of practice, these also must be approved by the Board prior to the new arrangements being implemented.

The registrant will also need to identify an appropriate Principal Supervisor acceptable to the Board and who will be responsible for providing supervision or for ensuring that appropriate supervisory arrangements are in place.

In the circumstances of hospital doctors, the Principal Supervisor will generally be the Director of Medical Services, Medical Superintendent or the Director of Clinical Training.

In the circumstances of private practice the Principal Supervisor must be an experienced practitioner practising in the same discipline as the registrant.

The Supervisor and practice (including hospital and health services) must be able to comply with the requirements of the level of supervision required.

The Principal Supervisor may delegate day to day supervision to another medical practitioner(s) provided that the other practitioner is not subject to supervisory conditions.

THE ROLE OF THE BOARD:

It is the responsibility of the Board to determine the level of supervisory requirements of the registrant and to approve the supervisory arrangements.

ROLE AND RESPONSIBILITIES OF THE SUPERVISOR:

The supervisor should be a person who has consented to act as a supervisor and should be approved by the Board. The supervisor should be able to comply with the requirements of the level of supervision required. The





relationship between supervisor and registrant should be professional. Thus persons who are directly related to the individual will not be approved as supervisors. Supervisors should not themselves be subject to supervisory arrangements.

The supervisor will be made aware of the reasons for supervision by the Board and provided with a list of undertakings/conditions.

The supervisor should take reasonable steps to ensure that the registrant is practising safely by such measures as direct observation (where it is relevant to the level of supervision), individual case review, periodic performance review and remediation of identified problems.

The supervisor should notify the Board immediately if there are concerns in relation to the registrant's clinical performance, health or non-compliance with conditions or undertakings. The supervisor must ensure that the registrant is practising in accordance with the approved work arrangements and must notify the Board of non-compliance with or of any proposed changes to those arrangements.

The supervisor should inform the Board if he/she is no longer able to provide the level of supervision that is required.

The supervisor should provide reports as required by the registrant's conditions or undertakings and comply with the Board's requirements as to format and frequency². These reports should be timely, objective and as accurate as possible. They should identify both strengths and weaknesses including any problems (if applicable) and what has been done in terms of follow-up or remediation. Supervisors have legal protection when reports are made to the Board.

ROLE AND RESPONSIBILITIES OF THE REGISTRANT:

The registrant must take reasonable steps to ensure safe practice by such measures as seeking assistance from other practitioners, cooperation in

² The supervisor is provided with a report proforma. The purpose of the proforma is to provide meaningful information which will assist the Board make decisions regarding continuing registration.

individual case review, periodic performance review with the supervisor and seeking remediation of identified problems.

The registrant must seek assistance if there are concerns in relation to the registrant's health, clinical performance or compliance with any conditions/undertakings.

The registrant must ensure that he/she is practising in accordance with the approved work arrangements.

MANAGEMENT OF BREACHES OF SUPERVISORY ARRANGEMENTS:

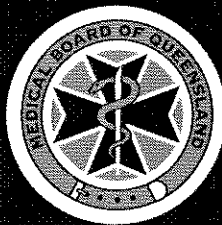
Should it be identified that the supervisory arrangements have not been complied with then the Board reserves the right to take appropriate action in regard to the registrant.





NOTES





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