Ex (509)

STATEMENT OF GAIL YVONNE DOHERTY of address know to the Queensland Nurses' Union of Employees

Qualifications and experience

1. I am a Registered Nurse licensed to practise in the State of Queensland. I have been registered since 1978. Since 1982 I have been working exclusively in the Operating Theatre environment.

Patient names

2. In this statement, in the interests of protecting the privacy of patients and the feelings of patients' family and friends, I have referred to patients according to a key devised by my lawyers which I have sighted and which I understand is to be supplied by my lawyers to the Bundaberg Hospital Commission of Inquiry on a confidential basis.

Background

3. I am employed by Queensland Health as a Clinical Nurse (NO2) in the Operating Theatre ("Theatre") at the Bundaberg Base Hospital ("BBH"). I have been employed in Theatre for approximately 5 years. For the last 8 months I have working as the Acting Nurse Unit Manager, a role I share with David Levings.

4. The Theatre at the BBH has four operating rooms, a recovery room and a day procedure room. The procedures undertaken in Theatre include: elective surgery, emergency surgery and endoscopy. The types of procedures undertaken include: general surgery, obstetrics and gynaecology, orthopaedics, minor operations, endoscopy, dental, urology, recovery and anaesthetics. Of the 4 theatres, any 3 can be used at one time, with up to six sessions of elective surgery being held per day on a normal day. These sessions are blocked out according to the nature of the procedure. The number of staff required for each session depends on the procedure.

5. The Theatre is budgeted for 13.5 full time equivalents. This includes a Nurse Unit Manager, 4 full-time clinical nurses and the rest of the staff are registered

nurses (NO1), both full-time and part-time. There is also one enrolled nurse. The role of nurses in Theatre is to scrub, scout or assist with anaesthetics.

6. Since I have been at the BBH we only have one day shift, with staff on-call for emergencies from the end of that day shift until the next morning. Staff are rostered, according to need, per session. The general surgeons who utilised the Theatre during the period from the middle of 2003 until April 2005 were Dr Jayant Patel and Dr James Gaffield.

Procedures undertaken in Theatre

7. I first worked with Dr Patel when he arrived in March 2003. Sometime late 2003, early 2004 I became concerned about the complexity of the operations that Dr Patel was undertaking. These procedures included oesphogogastrectomies and thorocotomies.

8. Mr P34 was the first oesphogogastrectomy in 2003. I could not understand why he was having such a complex procedure when it was my understanding that he was a chronic renal patient, and was so incapacitated with his renal disease. I felt perhaps he should have been transferred to see a specialist, however, I didn't see his chart in order to be fully informed as to his medical condition.

9. I approached Jenny White, who was the Nurse Unit Manager at the time, probably after the second oesphogogastrectomy, with my concerns. I questioned why we were doing these types of operations. I did not receive any feedback from Jenny regarding this.

10. I then spoke to Dr Martin Carter after probably the third oesphogogastrectomy undertaken by Patel. Dr Carter told me "the patients are fit for anaesthetic and Dr Patel said he can do them, so we can't say no". Karen Smith was present when Dr Carter said this. I felt there was nothing else I could do.

Dr Patel's behaviour

11. After Dr Patel had been at the Bundaberg Base Hospital for a couple of months I observed that his moods were changeable. I found him to be arrogant, loud and abusive at times.

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12. Sometime late in 2004 to early in 2005 I received, in my capacity of Acting Nurse Manager, two complaints regarding Dr Patel's behaviour. On both occasions Dr Patel had been verbally abusive. Both nurses, Janelle Law and Marie Goatham, were upset and crying. On both occasions Dr Patel had yelled at the nurse accusing her that she wasn't doing her job properly. I approached Dr Patel about this and told him he was not to verbally abuse the nurses.

13. At times when I became aware that he was raising his voice in the operating room, I would proceed to that room and stand there, ensuring my presence was noted by Dr Patel. The shouting then ceased.

Death of patient, P21

14. On the Monday before the 20 December 2004, I noticed that a patient, P21 was on the list for elective surgery for an oesphogogastrectomy. I was concerned that this complex operation was being done so close to Christmas. I felt that the patient should have had Christmas with his family before having such a high risk procedure.

15. On the morning of 20 December 2004, between 07:30 and 07:45 hours, I arrived at work and went to the Intensive Care Unit ("ICU") to pick up our dangerous drug cupboard keys. I was told by an ICU nurse that P21's procedure probably wouldn't proceed as there were no available ICU beds. I was informed by ICU staff that there was a patient in a ICU bed who was clinically brain dead but had not yet had brain death tests. I was further informed that Dr Patel had ordered that the ventilator be turned off overnight, but Dr John Joiner, the anaesthetist on call overnight refused to comply as he felt it was not appropriate at that time of night. I then proceeded to Theatre.

16. While I was in the reception area of Theatre, Dr Patel stormed through the main Theatre doors. He was visibly upset and speaking loudly. He was angry because the ICU patient's ventilator hadn't been turned off during the night. He then proceeded to speak to Dr Carter and I went back into Theatre to organise the rest of the list.

17. An hour or so later I was told by Dr Carter that the case would proceed as there was now a bed available in ICU. I understand it was the bed of the brain dead patient. I scrubbed for the case and the case proceeded.

18. During the procedure, I was unable at most times to see the operative site and I couldn't tell if there was significant blood loss. After Dr Patel finished the procedure, I handed the closing sutures up to the surgical team and began the counting procedure of all materials and instruments used in the procedure. Dr Patel assisted the resident to close the sheath layer and he then unscrubbed and the resident put the skin staples in.

19. I then cleaned and dressed the wound and connected the drain to a bell-o-vac and it immediately started draining a significant amount of blood. Within the next 5 – 10 minutes, nurses Damien Gaddes and Marie Goatham, and the anaethetist Dr Dieter Berens commented on the patient's blood loss. I had to empty the bello-vac and I estimate that was 300 – 400 mls of blood in the bag, which is not normal.

20. I again emptied the drain and re-vacuumed it, connected it and it continued to drain. Again it filled fairly quickly and I emptied the bag again. I estimate that again there was 300 – 400 mls of blood in the bag.

21. Damien Gaddes went to get Dr Patel, but he had left, so the resident Dr Sanjeev Kariyawasam came in. He also noted the significant blood loss and paged Dr Patel, who then came back to Theatre. Dr Patel emptied the drain, re-vacuumed it and said "It's settling, I don't need to do anything, send him to ICU". Dr Berens didn't say anything more about the blood loss to Dr Patel. The patient was then prepared for transfer from Theatre to ICU.

22. The patient did not return to Theatre during my shift, and it was only when I returned to work the next morning that I learnt that he had been taken back to Theatre, and had died in the night. I was also told by ICU staff that there was to be no post-mortem into cause of death as Dr. Patel had had the death certificate signed. This surprised me. I asked Dr Carter why a post-mortem was not performed and was told that the death certificate had already been signed and that

when he and Dr Berens had gone to see Dr Keating, P21's funeral service was due to be held within the hour and as a result the doctors agreed that they shouldn't upset the family any more. Dr Carter told me that the outcome of the meeting was that there were to be no further oesphogogastrectomies at Bundaberg Base Hospital.

23. Registered Nurse Katrina Zwolack and enrolled Jenelle Law approached me (in my capacity of Acting Nurse Unit Manager) about P21. They had at this time already approached David Levings who had told them to write a statement of events and give it to Linda Mulligan. When they spoke to me, they were concerned that if they put in a complaint to the Executive there would be reprisals. I advised them to speak to Linda Mulligan. Sometime just after Christmas or very early in January 2005 they made an appointment to see her and they reported back to me they were satisfied with what the process was, and they both wrote statements. Linda had reassured them that there would be no reprisals.

Elective Targets and Staffing

24. Early in 2005 the elective surgery targets became unmanageable. We were understaffed and the nursing workloads were excessive in terms of overtime. We keep an overtime book which has the number of hours of overtime worked by Theatre nurses. The nursing staff were becoming physically exhausted. My impression was that the elective surgery targets were to be met at any cost and that this push was being driven by the District Executive team. At this time I discussed the targets and the amount of overtime we were doing with Karen Smith, the Elective Surgery Coordinator. As I could not be present these issues were brought up by Karen at the next Theatre Management Committee Meeting on Wednesday 2 February, this meeting is usually held monthly.

25. As I was not at the meeting, I received an email from Dr Darren Keating, dated 8 February 2005 (attached and marked GD1).

. I felt the nursing staff were being stretched in this push to achieve targets at a time when staff were becoming physically exhausted.

26. Roughly around the same time Dr Patel told me that the District Manager, Peter Leck, had told him to meet the elective surgery targets at any cost. When I spoke to Dr Patel about the size of some of his lists and the effects that would have on overtime, he become verbally abusive, he raised his voice and said that if the staff have to work back they have to work back. This often meant working late into the night as the lists were fully booked with no capacity for emergencies. Emergencies would push out the list and we would often work well into the night to finish the elective list and the non-life threatening emergencies that had built up during the day. I felt that I couldn't do anything about this as it appeared to be driven by the Executive and that Dr Patel had their full support in achieving targets regardless of the nursing and anaesthetic overtime hours worked. This position continued until Dr Patel left.

.....GY Doherty.....

Signed: Gail Yvonne Doherty

Date: 20.5.05

I **Gail Yvonne Doherty** do solemnly and sincerely declare that the content of this my statement for the Bundaberg Hospital Commission of Inquiry (this declaration being at the foot of the last page of the statement comprising 6 pages) is true and correct to the best of my knowledge and belief and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.

.....GY Doherty.....

Gail Yvonne Doherty

Declaration Taken By:

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Lawyer

Date: 20/5/05

GD 1

From: Darren Keating
To: Gail Doherty
Date: 8/02/2005 4:01pm
Subject: Theatre Activities

Hi Gail

As you weren't at the TMG meeting last week, I have sent you this email.

At the present time BHSD is 92 wtd separations behind target. The target is achievable. BHSD must achieve the target - for many reasons including financial (over $750,000 per year), ability to undertake range of operations, new equipment for OT, repair of equipment in OT, education and training of staff.

Should the target not be achieved, BHSD will not get another chance to upgrade the target and hence lose flexibility and significant dollars, (with increased scrutiny of all dollars spent in OT). Therefore it is imperative that everyone continue to pull together and maximise elective surgery thruput until Jun 30. All cancellations should be minimal with these cases pushed thru as much as possible.

To this end, as per draft policy, all elective surgery cancellations are to be discussed by Dr Patel, Dr Carter, Muddy and A/NUM OT. Should there be a problem, the final decision will be made by me.

Your cooperation and support during this period is greatly appreciated. Should you have any problems, please discuss.

Thanks

Darren

CC: Jayant Patel; Karen Smith