

SPECIAL COMMISSION OF INQUIRY  
INTO ACUTE CARE SERVICES IN NSW HOSPITALS

Before Mr Peter Garling SC, Commissioner

At Courtroom 21A, John Maddison Tower,  
88 Goulburn Street, Sydney

On Thursday, 14 February 2008, at 10.00am

Counsel Assisting: Mr Terence Tobin QC,  
Ms Georgina Wright and Ms Kelly Rees

Solicitor to the Inquiry: Ms Catherine Follett  
Senior Legal Officer: Clare Miller

1 THE COMMISSIONER: Ms Wagstaff, will you read the Terms of  
2 Reference.

3

4 MS WAGSTAFF:

5

6 New South Wales

7

8 ELIZABETH THE SECOND, by the Grace of God,  
9 Queen of Australia and Her other Realms and  
10 Territories, Head of the Commonwealth.

11

12 To Mr Peter Richard Garling SC.

13

14 By these Our Letters Patent, made and  
15 issued under the authority of the Special  
16 Commissions of Inquiry Act 1983, We hereby,  
17 with the advice of the Executive Council,  
18 authorise you as Commissioner to inquire  
19 into and report to Our Governor of the said  
20 State on the following matters concerning  
21 the delivery of acute care services in  
22 public hospitals in New South Wales:

23

24 1. any systemic or institutional issues in  
25 the delivery of acute care services in NSW  
26 public hospitals raised in submissions you  
27 receive that you consider appropriate for  
28 you to inquire into and recommend any  
29 changes which should be made to address  
30 them;

31

32 2. identify existing models of patient  
33 care used in the delivery of acute care  
34 services in NSW public hospitals with  
35 particular regard to case management  
36 including supervision of junior clinical  
37 staff, clinical note-taking and  
38 record-keeping, and communication between  
39 health professionals involved in the care  
40 of a patient;

41

42 3. recommend any changes which should be  
43 made to the existing models of patient care  
44 identified under paragraph 2 to improve the  
45 quality and safety of patient care in NSW  
46 public hospitals;

47

1 4. identify any systemic impediments to  
2 the implementation of changes recommended  
3 under paragraph 3;

4  
5 5. recommend any changes which NSW Health  
6 should make to overcome any impediments  
7 identified under paragraph 4; and

8  
9 6. recommend any changes which NSW Health  
10 should make to ensure that its workforce  
11 policies and practices support improved  
12 models of patient care.

13  
14 You may have regard to the developments  
15 arising from the National Health and  
16 Hospitals Reform Commission and other  
17 Commonwealth-State reforms in relation to  
18 Australian health care delivery, to the  
19 extent that they arise before the date for  
20 the delivery of your report.

21  
22 You are to refer any individual patient  
23 complaints identified in the course of your  
24 inquiry to the Health Care Complaints  
25 Commission.

26  
27 You may seek the advice of such eminent  
28 persons as you choose to engage who have  
29 expertise in any one or more of medical  
30 practice, nursing practice, allied health  
31 practice, hospital management and such  
32 other areas as you consider appropriate.  
33 If you so desire, you may engage any such  
34 eminent persons from other States or the  
35 Territories or from outside Australia.  
36 This does not limit your ability to employ  
37 any other assistance under section 13 of  
38 the Special Commissions of Inquiry Act  
39 1983.

40  
41 AND hereby establish a Special Commission  
42 of Inquiry for this purpose.

43  
44 AND OUR further will and pleasure is that  
45 you do, as expeditiously as possible, but  
46 in any case on or before 31 July 2008,  
47 deliver your final report in writing of the

1 results of your inquiry to the office of  
2 Our Governor in Sydney.

3  
4 AND pursuant to section 21 of the Special  
5 Commissions of Inquiry Act it is hereby  
6 declared that sections 22, 23 and 24 shall  
7 apply to and in respect of the Special  
8 Commission the subject of these Our Letters  
9 Patent.

10  
11 IN TESTIMONY WHEREOF, WE have caused these  
12 Our Letters to be made Patent and the  
13 Public Seal of Our State to be hereunto  
14 affixed.

15  
16 WITNESS Her Excellency Professor Marie  
17 Bashir, Companion of the Order of  
18 Australia, Commander of the Royal Victorian  
19 Order, Governor of the State of New South  
20 Wales in the Commonwealth of Australia.

21  
22 Dated this 29th day of January 2008.

23  
24 THE COMMISSIONER: As you have just heard, at the end of  
25 January 2008, I received Letters Patent from Her Excellency  
26 the Governor of New South Wales to inquire into and report  
27 upon certain matters concerning the delivery of acute care  
28 services in public hospitals in New South Wales.

29  
30 I am required to report on or before 31 July 2008.

31  
32 My Letters Patent are issued under the authority of  
33 the Special Commissions of Inquiry Act 1983.

34  
35 Mr Terence Tobin of Queen's Counsel, Ms Kelly Rees and  
36 Ms Georgina Wright of junior counsel have been appointed as  
37 counsel assisting this Special Commission. Ms Cate Follent  
38 is the principal solicitor to the inquiry.

39  
40 In the short time since my appointment, I have  
41 consulted with a range of individuals who have provided, on  
42 a preliminary basis, information concerning the scope and  
43 content of my inquiry.

44  
45 I have also held a lengthy conference with the  
46 Director-General of the Department of Health, the Deputy  
47 Directors-General of that department and the chief

1 executive officers of each of the area health services in  
2 New South Wales for the purpose of explaining to them how  
3 I intend to conduct this inquiry and what I expect from  
4 them.

5  
6 I have commenced on a program of visits to public  
7 hospitals for the purpose of familiarising myself with the  
8 hospitals and in order to informally meet with and hear  
9 from staff who are engaged in the delivery of acute care  
10 services.

11  
12 As well, I have secured premises and established  
13 administrative and support systems to enable the inquiry to  
14 function efficiently and effectively.

15  
16 I have also assembled the necessary and appropriately  
17 qualified full-time staff to assist with my inquiry.

18  
19 It is important to record that the staff I have  
20 engaged to assist me are required by me to be, and they  
21 are, independent of the Government and, in particular,  
22 independent of the Department of Health. No current staff  
23 of the Department of Health have been engaged to join my  
24 staff for this inquiry.

25  
26 The terms of reference which you have heard read are  
27 potentially very broad. I will shortly ask senior counsel  
28 assisting to make some preliminary remarks about the scope  
29 and nature of the issues which may arise in the course of  
30 the inquiry.

31  
32 Following those remarks and a short adjournment,  
33 I will invite those organisations or individuals who wish  
34 to assist me in my inquiry to identify themselves, outline  
35 the nature of their organisation and briefly indicate the  
36 extent of assistance that they can provide to the inquiry.

37  
38 I then intend to give some directions about the  
39 provision of submissions to the inquiry.

40  
41 The process by which this inquiry will obtain  
42 comprehensive information to enable the terms of reference  
43 to be addressed and a report to be prepared is likely to  
44 include, as I have indicated earlier, a comprehensive  
45 program of familiarisation visits to hospitals, including  
46 those in rural and regional areas; a series of public  
47 hearings which I intend to conduct in hospitals or on the

1 premises of area health services so that staff can provide  
2 the Commission with information directly about the problems  
3 and difficulties encountered by them in the workplace and  
4 give to me their suggestions for reform. A transcript of  
5 those hearings will, I anticipate, be made publicly  
6 available through the inquiry's website.  
7

8 I intend to hold a series of private hearings during  
9 which particular issues will be explored in detail with  
10 identified individuals who have special expertise which  
11 I anticipate will be of assistance to the inquiry.  
12

13 As appropriate and in order to stimulate debate and  
14 inform assistance to me, submissions which are received by  
15 the inquiry will also be made publicly available through  
16 the inquiry's website.  
17

18 I will also provide a channel for private or  
19 confidential communications to me, which will enable any  
20 person involved in the provision of acute care services in  
21 the public hospital system, or any individual member of the  
22 public, to provide information to the inquiry on a  
23 confidential basis.  
24

25 My terms of reference permit me to, and it is my  
26 intention to, establish a consultative group of highly  
27 qualified and eminent experts, both international and from  
28 Australia, whose expertise is undoubted to assist me to  
29 formulate my opinions and provide me with advice about any  
30 recommendations which may be made in my report.  
31

32 It will be apparent from this brief outline of how I  
33 propose to conduct this inquiry that this inquiry will not  
34 be and will not be permitted to be an adversarial one  
35 conducted for the purpose of fixing blame for past events.  
36 Rather, it will be an inquiry which identifies the reforms  
37 which I regard as appropriate for improving the safety and  
38 efficacy of the acute care services in the public hospital  
39 system for the future.  
40

41 I will not permit my inquiry to be an occasion for  
42 grandstanding and speech making motivated only by  
43 self-interest. The subject matter of the inquiry and the  
44 importance of it, the well-being of everyone who lives in  
45 New South Wales or who visits New South Wales would demand  
46 nothing less.  
47

1 As well, the powers which I have conferred upon me by  
2 the Special Commissions of Inquiry Act which are for all  
3 practical purposes the same in effect as those provided to  
4 a Royal Commission, are extensive and will permit me to  
5 control the inquiry in a way which will enable it to do its  
6 work effectively and efficiently. I will not hesitate to  
7 use those powers if necessary to achieve this result.

8  
9 This inquiry provides the opportunity and the occasion  
10 for very real reform in the New South Wales public hospital  
11 system. I urge all those who have an interest in and a  
12 concern for such reform to cooperate with this inquiry and  
13 assist its efforts.

14  
15 I will dedicate myself throughout the course of this  
16 inquiry to the identification of reforms which will result  
17 in the improvement of quality and safety of acute patient  
18 care services in New South Wales. That is what my  
19 commission requires me to do and that is what the public of  
20 New South Wales is entitled to expect. Mr Tobin?

21  
22 MR TOBIN: Commissioner, I have been appointed with  
23 Ms Kelly Rees and Ms Georgina Wright as counsel assisting  
24 in your inquiry. I would wish to make some opening remarks  
25 dealing, among other things, with the scope of the inquiry.  
26 First, the circumstances which have given rise to the issue  
27 of the Letters Patent that you have referred to this  
28 morning. Next, the value of submissions which recognise  
29 the need to formulate policies and practices which may have  
30 immediate effect and impact in the shorter term, as well as  
31 those submissions which seek to shape a strategy for the  
32 coming decade.

33  
34 Next, the manner of dealing with individual patient  
35 complaints that arise out of the terms of the commission  
36 which you have been granted. Next, the scope of the  
37 inquiry, namely, that which falls within the regime of the  
38 public hospitals, that which is acute care, briefly to deal  
39 with the work force in public hospitals and time  
40 permitting, the role of the emergency departments.

41  
42 It will be known to all present that this Commission  
43 arises out of events of recent times and inquiries into  
44 them dealing with the public health system of this State.  
45 Notably, in October 2007 the Parliament established a Joint  
46 Select Committee chaired by the Reverend Fred Nile to  
47 inquire into the quality of care of patients at Royal North

1 Shore Hospital. That inquiry reported to the Parliament on  
2 20 December 2007. It made 45 recommendations related to  
3 the management and operation of Royal North Shore Hospital,  
4 recommendations which the committee informed the parliament  
5 were in many instances relevant to the public hospital  
6 system across the State.

7  
8 On 24 January 2008 the State Deputy Coroner handed  
9 down his decision in the circumstances surrounding the  
10 death of Ms Vanessa Anderson whom it will be remembered was  
11 16 years of age and died at Royal North Shore Hospital in  
12 November 2005. The Coroner found with regard to that  
13 particular subject of his inquiry that her death resulted  
14 from a series of failures, errors and omissions by hospital  
15 staff, but in the course of delivering his decision the  
16 Deputy State Coroner observed that the New South Wales  
17 health system was labouring under pressure from demands  
18 placed upon it. He said and I quote:

19  
20 The same systemic problems are invariably  
21 identified: not enough doctors, not enough  
22 nurses, inexperienced staff, poor  
23 communication, poor record-keeping and poor  
24 management. These [he said] are systemic  
25 problems which have existed for a number of  
26 years.

27  
28 The Coroner was of the view, which he stated, that there  
29 should be a full inquiry into the delivery of health  
30 services in New South Wales. Those present will also  
31 recall that problems dealing with the New South Wales  
32 health system have been the subject frequently of reporting  
33 in the mass media dealing with delays in treatment at  
34 emergency departments, delays in booking or receipt of  
35 elective surgery, delays in ambulance arrivals and mistakes  
36 in treatments and surgery.

37  
38 In that context, the Honourable Reba Meagher on  
39 29 January 2008 as Minister for Health announced the  
40 establishment of a Special Committee of Inquiry and its  
41 terms of reference. The Commission begins your work,  
42 Commissioner, assisted by work which has preceded it. The  
43 Royal North Shore Hospital inquiry conducted by the Joint  
44 Select Committee received more than 100 submissions from  
45 members of the public and was able to report in a detailed  
46 way in December of last year. You will recall,  
47 Commissioner, that Mr Walker SC conducted an inquiry which

1 reported on 30 July 2004 into allegations from nursing  
2 staff at Campbelltown and Camden Hospitals.

3

4 The Department of Health has prepared in recent years  
5 detailed analysis and reporting on the delivery of health  
6 services, research projects have been conducted by  
7 university researchers, professional bodies representing  
8 medical specialties and nurses and hospital workers have  
9 themselves formulated views upon the better performance of  
10 the system. May I say, Commissioner, that one would hope  
11 to have fresh input from interns and registrars in our  
12 public hospitals who may be thought to be free from the  
13 vice of long experience: that is, becoming fixed in their  
14 ways.

15

16 That is the context in which the inquiry was commenced  
17 on the order of the Government. In the course of the  
18 public debate which I have referred to briefly, the term  
19 "crisis" is sometimes used as a shorthand to describe and  
20 condemn the condition of our public hospitals and it may be  
21 useful to consider for a moment what the word in fact  
22 means. Medically, it is generally used to identify the  
23 turning point of a disease for better or worse. In the  
24 wider world of politics, government and commerce, it  
25 generally means a state of affairs in which a decisive  
26 change for better or worse is imminent and in that context,  
27 it is usually that the decisive change is expected for the  
28 worst.

29

30 Whether or not that in any way is an apt description  
31 of the health system delivered by public hospitals in this  
32 State is, of course, a matter for evidence which will be  
33 submitted in the coming months before you and whether the  
34 Commission's work is seen in the future as a turning point  
35 will no doubt also emerge in time. There are however,  
36 Commissioner, a number of givens about the future direction  
37 of public hospitals in New South Wales, understandings that  
38 have been arrived at and may enjoy fairly widespread  
39 acceptance.

40

41 The Independent Pricing and Regulatory Tribunal of  
42 this State reported in its report focusing on patient care  
43 that pressures on the health system will continue to  
44 increase in the coming years. Pressure on health  
45 expenditure, the Tribunal said, will continue due to the  
46 growth in the population, the aging of the population, the  
47 availability of new treatments, higher workforce costs and

1 increasing community expectations as we collectively  
2 become, in the words of the Tribunal, a wealthier and more  
3 educated society.  
4

5 There is another given, the tyranny of time, the  
6 number of years it takes to educate a new generation of  
7 medical and nursing graduates before they are ready to take  
8 up work in the public hospital system. It is to be  
9 expected that many submissions will work on the assumption  
10 that the solution to the problems posed in the terms of  
11 reference lies in increasing the number of clinicians, of  
12 doctors and nurses in the public system. However, if I  
13 could offer this observation, every such submission which  
14 proceeds on the basis that we need more doctors and nurses  
15 should also deal with the problem of lead time. How long  
16 will elapse before the extra doctors and nurses are in the  
17 wards?  
18

19 The second problem which submissions might address is  
20 what should be done while we, the New South Wales public,  
21 are waiting? The public isn't likely to find it reassuring  
22 that things will be put to right in the middle of the  
23 coming decade. I wish to state clearly at the outset,  
24 Commissioner, that the inquiry would be greatly assisted by  
25 submissions which propose solutions based on the resources  
26 at hand, no doubt in anticipation strategically of changes  
27 for the better, but aware of the obligation to the public  
28 by those who dispense health care to ameliorate any  
29 problems as quickly as possible.  
30

31 It needs to know about the long-term or strategic  
32 planning which may take some years to bring about, indeed,  
33 it may take many years in some cases and the inquiry would  
34 welcome the expertise available from the professions  
35 involved in health care in analysing the policies and  
36 practices for the long-term. But in addition, we would  
37 hope that that expertise would also address the question of  
38 what is to be done in the short term. The inquiry and its  
39 recommendations as to practices and policies for the  
40 Department of Health in public hospitals is not something  
41 to be done on the Never Never.  
42

43 Let me illustrate, if I may, Commissioner, by two  
44 examples. They relate to the work force and in particular  
45 to nurses and to specialists working in public hospitals  
46 and they relate to the already understood need to close the  
47 gap in shortages in those parts of the work force. There

1 are 91,000 staff which I might call full-time equivalent  
2 staff employed in the New South Wales Department of Health,  
3 the Ambulance Service and health services as at the end of  
4 June 2007. Of those, 7,301 are medical staff. This is  
5 reported in the annual report of the Department of Health  
6 2006-2007, Appendix 4.

7  
8 There are 38,100 nursing staff. There are 3,300  
9 ambulance clinicians. About 65 per cent of the overall  
10 staff are clinical as opposed to administrative. In that  
11 part of the work force in the public hospital system there  
12 are as individuals 41,000 or so nurses: the full-time  
13 equivalent figure is 38,000. Compared to other OECD  
14 countries, Australia is well below the OECD average in  
15 terms of the number of nursing graduates per 1,000 nurses.  
16 That of course is a statistic that is directed towards the  
17 source of replacement of the present nursing staff as  
18 graduates come into the system. As a footnote, the OECD  
19 countries are 30 in number and represent 18 per cent of the  
20 world's population.

21  
22 That statistic is a measure of the rate at which new  
23 nurses are being trained throughout Australia to replace  
24 the existing practitioners and it is of particular concern  
25 in respect of nurses where the average career, according to  
26 the data we have, is of a shorter duration than that of  
27 doctors. Australia ranks well, however, against other OECD  
28 countries in terms of the number of nurses per 1,000 of  
29 population, the ratio of nurses to doctors and the level of  
30 remuneration.

31  
32 That background has led to projection modelling for  
33 nurses to assess the required intake from university  
34 graduation. An analysis in 2007 of labour force  
35 requirements indicated that 1,769 additional university  
36 places were required to commence, that is, people to  
37 commence nursing courses, in 2008 for registered nurses to  
38 come through the system to balance the work force  
39 requirement by 2014. That is a six-year time lag for a  
40 satisfactory balance within the work force based upon 1,769  
41 additional university placements.

42  
43 In fact, a total of 200 places were allocated against  
44 this requirement, and modelling is about to commence to  
45 work out the 2009 requirement. The Commonwealth has  
46 announced 1,500 new places nationwide over the next  
47 18 months, and New South Wales, according to its share of

1 population, might expect 500 of those places.

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That movement, in some cases, denudes the poorer country of 50 per cent of its medical graduates. Ghana is a case in point. Such a movement of the medical work force is a worldwide phenomenon. The movement creates a shortage of clinicians in the home countries and depends upon the perceived shortage of clinicians in the receiving countries. Thus, it is fair to conclude that it bespeaks a shortage of doctors, and the same applies to nurses, worldwide.

It is difficult to see that that movement can continue indefinitely or, to pose the problem slightly differently, that our health system can rely upon foreign graduates coming to these shores to make up the gap.

It has already been challenged in international meetings based on the broader demands of justice; that is, the question is raised, is there a limit to the well-off countries benefiting at the expense of the poorer countries?

The New England Journal of Medicine on 27 October 2005, in an article, "Fatal flows - doctors on the move", made the following observation:

US medical schools graduate a relatively stable 17,000 medical graduates annually, but the demand for residency exceeds this by 30 per cent. The shortfall is made up by foreign medical graduates.

The authors called that "the silent theft from the poorest countries through the loss of public subsidies for medical education".

The significance for our community, Commissioner, is this: the state of affairs where the gap in medical graduates can be assumed to be filled by foreign graduates is not a state of affairs which we can assume will continue indefinitely in the future. Submissions framed around the question of the shortage of clinicians should, if I could suggest with respect, deal where possible with the situation where the gap is not closed by graduates from other countries.

The result of this is that inevitably - that is, it is

1 a given - increasing pressures from Governments will affect  
2 the supply of foreign graduates and thus affect the ability  
3 of our communities to make up the gap.

4  
5 It is important to raise this at beginning,  
6 Commissioner, because term 6 of the terms of reference  
7 enjoins you to recommend any changes which NSW Health  
8 should make to ensure that its work force policies and  
9 practices support improved models of patient care.

10  
11 In informing itself about policies and practices, the  
12 Commission will, of course, call upon a wealth of expertise  
13 in the medical profession and in public administration.  
14 But the best policy suggestions will come to nothing unless  
15 there are people available to implement them - doctors,  
16 nurses and support staff in hospitals and trained  
17 administrators throughout the public health system. So  
18 much is obvious.

19  
20 What is not obvious, I suggest, Commissioner, and what  
21 may require intense study during the course of the Inquiry,  
22 is what happens in the event that there were not enough  
23 doctors and nurses to go around, in other words, that the  
24 availability of evermore health professionals is not so  
25 obvious that it is a premise which can be assumed and need  
26 not be proved.

27  
28 May I illustrate that this way: Australia has an  
29 aging population, which affects health care in two ways:  
30 the elderly need more care; the doctors and nurses grow  
31 old. There are other professions as well which may attract  
32 the interest of young undergraduates embarking upon  
33 careers, young undergraduates who might otherwise have  
34 replenished the ranks of the older generation of  
35 health-care providers.

36  
37 Increased salaries may not necessarily redress the  
38 balance. Many young doctors working in public hospitals  
39 would not expect their salaries to be comparable with many  
40 of their contemporaries recently graduated and entering the  
41 finance industry, IT, law firms and the like. I should  
42 add, there is the present great pull on the labour market  
43 of the mining boom and the expansion in the ranks of  
44 engineers and scientifically trained graduates. The point  
45 is that there is intense competition and will be throughout  
46 the economy for graduates, and submissions which see the  
47 solution as involving simply more clinicians may need to

1 analyse how the work force in health care at its present  
2 level - that is, as a proportion of the total work force -  
3 should be best utilised in the contingency that not enough  
4 graduates want to be doctors or nurses and that the  
5 shortfall cannot be made up overseas.

6  
7 Or, to put it another way, where the solution to a  
8 problem is said to rest with more medical professionals,  
9 the Commission will be assisted by the best advice as to  
10 how the increase in number should be achieved and,  
11 alternatively, how the present system should be reorganised  
12 so that the finite number of available clinicians could  
13 achieve the desired results. This need for detailed  
14 analysis of the best utilisation of the present resources  
15 within the work force may turn out to be a very significant  
16 issue in the shorter term.

17  
18 In the shorter term, for example, we learn that recent  
19 studies conducted by Professor Christine Duffield and her  
20 research team at UTS from the Centre for Health Services  
21 Management found work patterns within the nursing work  
22 force that were unexpected. The title of the report is  
23 "Gluing it together: Nurses, their work environment and  
24 patient safety".

25  
26 The study found that a substantial impact on nurses'  
27 workload was caused by what they dub "churn", which  
28 previously had not been well recognised, that is, the  
29 constant movement of patients to and from nursing wards,  
30 requiring the involvement of nurses where the patient was  
31 frail, a fall risk, on high-dose chemotherapy, agitated or  
32 bleeding. Clearly, there is a need to identify what tasks  
33 should be performed by clinicians, nurses and doctors and  
34 what could be done by support staff.

35  
36 One theme that arose during the Joint Select Committee  
37 Inquiry into Royal North Shore was in the submission of the  
38 Nurses Association of this State relating to critical staff  
39 shortages at Royal North Shore Hospital. The work of ward  
40 clerks in administration, the checking of pharmacy cover  
41 for the ward, the delivery of pathology specimens, the  
42 escorting of patients between departments, the fetching of  
43 equipment and the checking that patients had been fed, and  
44 fed correctly, fell to nurses in the absence of adequate  
45 support staff.

46  
47 These illustrate the need to match qualifications to

1 task, to organise the existing medical work force  
2 efficiently, to abandon set or fixed frames of mind as to  
3 what is the appropriate work for different parts of the  
4 health work force and a willingness to innovate and to  
5 change in circumstances where, as I said at the outset, the  
6 public cannot wait for six or more years.

7  
8 The Commission will be greatly assisted by the  
9 practical knowledge of those working in the public  
10 hospitals and by submissions from them which deal, in a  
11 practical way, with how best to use their expertise  
12 practically on a time-management basis, or, to put it more  
13 clearly, more plainly, so that they are not wasting their  
14 time and expertise on tasks better performed by others.

15  
16 As you indicated, Commissioner, at the outset, the  
17 proceedings are not to be conducted in an adversarial  
18 manner. I note that the joint select committee, having  
19 investigated the role of nurses and doctors at Royal North  
20 Shore Hospital, stated that they had been subject to  
21 intense media and public scrutiny over many months, and the  
22 select committee was of the view that restoring staff  
23 morale and public trust would be a major challenge for the  
24 area health services and the hospital management.

25  
26 Certainly, the Commission which you conduct,  
27 Commissioner, would be concerned that an inevitable benefit  
28 would be the restoration of staff morale and public trust  
29 and in no way an undermining of that morale and public  
30 trust in the course of the Inquiry.

31  
32 I would like to deal briefly with a passage that was  
33 read out concerning the dealing with individual patient  
34 complaints identified in the course of your Inquiry and the  
35 referral of them to the Health Care Complaints Commission.

36  
37 The terms of reference which have just been read  
38 require you, Commissioner, to refer such individual patient  
39 complaints to the Health Care Complaints Commission and  
40 they do not authorise you to conduct an inquiry into the  
41 individual patient complaints. However, it is a function  
42 of the inquiry to ensure that all complaints of an  
43 individual kind by patients are sent to the Health Care  
44 Complaints Commission, and there is a designated officer at  
45 the Health Care Complaints Commission who will be  
46 responsible for handling all such complaints.

47

1 But at the end of the day, the public trust, of  
2 course, is only maintained by the work of the individual  
3 clinicians. The patient doesn't trust a system; the  
4 patient trusts a person - a doctor, a nurse, a ward  
5 orderly. That may be relevant, Commissioner, in dealing  
6 with the question of the cultural models that exist within  
7 the public hospital system.

8  
9 If I could move, then, to the overall scope of the  
10 Inquiry itself as set out by the terms of reference. There  
11 are two aspects which govern in a general way the scope of  
12 the inquiry. First, the inquiry is limited to New South  
13 Wales public hospitals. Secondly, it is only concerned  
14 with acute care services provided by these hospitals. The  
15 question of what constitutes acute care is very often a  
16 product of statistical rather than medical or philosophic  
17 analysis. I can say, Commissioner, that it does not  
18 include treatments such as rehabilitation, palliative care,  
19 psycho-geriatric care, geriatric evaluation and management,  
20 being a component of aged care or maintenance care,  
21 including respite care, some nursing home care or the  
22 provision of care in a psychiatric unit over an indefinite  
23 care period.

24  
25 Those limitations are important because in the overall  
26 profile of patients being treated in the public hospital  
27 system, 10 per cent are paediatric between the time of  
28 birth and the age of four. It is not until the population  
29 ages to the present 65 years of age that those numbers  
30 approach that figure: that is, one deals at 7 per cent  
31 admitted patient episodes into public hospitals in the age  
32 bracket 65 to 69, 104,000 acute episodes.

33  
34 In the next four years, ages 70 to 74, 7 per cent,  
35 115,000 to 116,000. The next age band, 75 to 79, 123,000  
36 acute care episodes at 8 per cent. In 2006 people aged 65  
37 and over accounted for over 44 per cent of all acute bed  
38 days in New South Wales public hospitals.

39  
40 The scope of the inquiry is limited by the  
41 understanding of acute care and I don't propose a rigid  
42 definition as appropriate at this time and of course the  
43 delivery of acute care treatments in our public hospitals.

44  
45 Could I briefly touch upon the public hospital system,  
46 Commissioner, so that those who have an interest in this  
47 inquiry will understand the complexity and the scope of the

1 system into which you are inquiring. There are 250-plus  
2 public hospitals in this State and 115 of them are  
3 categorised as being acute care.  
4

5 New South Wales has one third of Australia's inpatient  
6 beds. That is over 19,000 in the New South Wales public  
7 hospital system. In this State a further 6,200 beds are  
8 provided, as at 2006, by private hospitals which is  
9 24 per cent of total hospital beds in the State. There  
10 were in the last financial year to 30 June 2007,  
11 1.523 million admissions into New South Wales public  
12 hospitals of which 449,000 came via the emergency  
13 department. It is a phenomenon well recorded in the  
14 literature and in the statistics that the demands on  
15 emergency departments in this State grow year by year and  
16 they grow in a way that reflects a switch from that form of  
17 acute care delivered by general practitioners to  
18 presentation at the emergency department where it is  
19 delivered by the public hospital system.  
20

21 The grouping of our public hospitals is reported on in  
22 the Department of Health annual reports and I would invite  
23 those who are interested to look at those reports because  
24 it gives a picture of the gradations of health care able to  
25 be delivered by a wide range of hospitals. Clearly, in  
26 what's called the Principal Referral Group, which includes  
27 Royal Prince Alfred, Royal North Shore, John Hunter  
28 Hospital in the Hunter and Wollongong Hospital, in those  
29 hospitals there are generally a concentration of  
30 world-class specialist services to deal with acute care  
31 cases.  
32

33 It is commonsense that an equivalent level of  
34 specialisation and treatment could not be available at the  
35 other end of the scale dealing with acute care treatments  
36 which are called community acute hospitals with surgery,  
37 which include hospitals such as Bellinger River and  
38 Cootamundra or community acute hospitals without surgery,  
39 18 hospitals, such as Wee Waa and Condobolin.  
40

41 It is a matter of commonsense that the highest  
42 specialties will be concentrated in the greatest area of  
43 population and thus it becomes paramount to ensure that  
44 those services reach out or are available to members of the  
45 population of New South Wales wherever they live and that  
46 of course raises questions of transportation from acute  
47 care hospitals who may treat at the lowest level 2,000 what

1 are called acute case-mix weighted separations, I apologise  
2 for the statistical language, but between those that treat  
3 less than 2,000 to the great metropolitan hospitals which  
4 are treating over 25,000 answering that description.  
5

6 I would like to deal briefly then with the inexorable  
7 pressures upon the public hospital system that arise in the  
8 context of the general health of the community in this  
9 State. Life expectancy for males in New South Wales for  
10 2005 on is 79.2 years; for women it is 84.2 years. These  
11 figures are in the top band of life expectancy for OECD  
12 countries. Life expectancy in this State increases year by  
13 year. From 2001 to 2005, female life expectancy increased  
14 0.8 years, male life expectancy by 1.2 years. Thus, the  
15 phenomenon of the aging population is marked by a success  
16 in increasing life expectancy, a success in providing  
17 high-grade medical services at the inevitable cost of  
18 pressures on the public hospital system.  
19

20 In the course of the inquiry, Commissioner, material  
21 will be presented dealing with infant mortality which in  
22 this State is 4.9 births per thousand in 2005 compared to  
23 the OECD rate of infant mortality of 5.4, against which is  
24 to be matched infant mortality amongst indigenous babies  
25 markedly higher at 7.5 per thousand. That is clearly a  
26 matter which the inquiry will be concerned to investigate.  
27 With the elderly, increasingly the success of the delivery  
28 of medical services is creating a continuing pressure upon  
29 the public health system.  
30

31 I said, Commissioner, at the outset that I would touch  
32 upon the work force question. I had referred to nurses and  
33 I had referred to medical graduates and clinicians.  
34 I should earmark those other health workers of interest to  
35 your Commission. A new model of administration of patient  
36 care known as the "hospitalist" has been the subject of a  
37 pilot program in 11 hospitals in this State. This is for  
38 doctors who don't wish to be specialists, but who wish to  
39 increase their skills across a number of specialty areas  
40 and who would be in the position to oversee on a continuing  
41 basis the care of patients coming into the hospitals.  
42

43 I have indicated with regard to registrars, 2,459 of  
44 them in the last figures, working in our public hospitals  
45 and interns, 488, and the assistance that the Commission  
46 would obtain by the unalloyed and candid view of those  
47 members of the work force of how the system operates.

1 General practitioners play an important part through the  
2 VMO system, among other things, in delivery of acute care  
3 in public hospitals, but as I indicated earlier, the  
4 availability of graduates, medical graduates in general and  
5 medical graduates who wish to be general practitioners is  
6 an issue that requires further study.  
7

8 Finally, social workers were referred to as among the  
9 ancillary workers of enormous importance in the public  
10 hospital system. There are 1,284 full-time equivalent  
11 social workers as at September last year. It may well be  
12 that some of the functions of healing and caring which  
13 doctors and nurses may wish to perform but may not be able  
14 to in the context of their emergency departments and the  
15 like, may fall to social workers, a group the training of  
16 whom is on a much shorter time span than for clinicians.  
17

18 Finally, a matter which Australians are proud to  
19 mention in the context often of sporting events, the  
20 statisticians tell us that a third of Australians are  
21 volunteers in some way or other. That may be volunteering  
22 in mowing the bowling lawn or it may be volunteers working  
23 in hospitals, but it may well be that there are volunteer  
24 groups within the wider community who have a very lively  
25 interest in our public hospital system and who could offer  
26 to you, Mr Commissioner, some thoughtful ideas on how they  
27 may mobilise that enthusiasm.  
28

29 I won't deal, Commissioner, with the general topic of  
30 the emergency departments other than to reiterate what I  
31 said at the outset, that the public I'm sure would wish to  
32 know that for various reasons, the dynamic of which may  
33 need to be further explored, more and more people are  
34 entering into emergency departments at public hospitals.  
35 In the past they would have gone to a general practitioner  
36 to mend the broken arm or the cut foot. This is something  
37 that we as a community are well aware of and that may  
38 reflect the aging cohort of general practitioners, the time  
39 limitations of their availability for treating patients,  
40 the shortage, if that be so, of 24-hour clinics and the  
41 like.  
42

43 They are all subjects, Commissioner, which of course  
44 require detailed analysis and no doubt in the course of the  
45 inquiry that question of how do we both identify the need  
46 to increase the labour force available to treat patients,  
47 whilst at the same time not postponing to six years in the

1 future the remedial task that you would be asked to  
2 perform.

3

4 THE COMMISSIONER: Thank you, Mr Tobin. I think it is  
5 necessary that we adjourn shortly for a few minutes to  
6 enable the rearrangement of the facilities in the courtroom  
7 and then I will return and resume the inquiry. We might  
8 just adjourn shortly for a couple of minutes.

9

10 SHORT ADJOURNMENT

11

12 THE COMMISSIONER: We move to that point where I am  
13 interested to hear from any organisations or individuals  
14 who are willing to offer some assistance. Is there anybody  
15 here this morning who wants to indicate their presence and  
16 the extent of their assistance?

17

18 MR NOLAN: Commissioner, my name is Nolan and I seek leave  
19 to appear on behalf of the Australian Medical Association  
20 of New South Wales Limited, the Australian Salaried Medical  
21 Officers Federation of New South Wales and the Rural  
22 Doctors Association. The first two of those associations,  
23 namely the AMA and ASMOF, wrote to the solicitor to the  
24 Commission yesterday. I trust that you received a copy of  
25 that letter.

26

27 THE COMMISSIONER: Yes, thank you.

28

29 MR NOLAN: I don't propose to read it, because I don't  
30 want to waste your time, but obviously we are keen and the  
31 tenor of our letter will have made it clear to you that our  
32 thinking is very much in line with what you indicated this  
33 morning and what counsel assisting has indicated. We think  
34 that a great deal can be gained by as much time being spent  
35 in the workplace as possible.

36

37 We have some experience in this, as you will not be  
38 surprised to hear. Most recently, in fact, there was a  
39 very significant wage case mounted in the Industrial  
40 Commission on behalf of the staff specialists, and we found  
41 it very valuable to take members of the Industrial  
42 Commission on actual inspections of the workplace. Of great  
43 interest were the inspections of emergency departments.

44

45 We think, with respect, that there is really no  
46 substitute for actual experience of what happens in these  
47 clinical settings. It is a real eye-opener, I can assure

1 you, and I think that it is something that you would regard  
2 as being very valuable indeed. It is very much part of our  
3 thinking and what we would commend to the Commission to do,  
4 as well as, of course, endorse your suggestions of meetings  
5 and informal sessions at the various hospitals.  
6

7 As we indicated in our correspondence, we are in  
8 a position to get a wide selection of clinicians to give  
9 evidence to the Commission. We are very much in your hands  
10 about the timetabling and so on, but we think that we could  
11 get that information fairly snappily, and if we could have  
12 some indication from you, Commissioner, as to the program,  
13 we would tailor our information-gathering exercise to meet  
14 that, so that when you went to a particular hospital, we  
15 would have given you, we hope, prior to your visit,  
16 statements from the relevant clinicians. That would allow  
17 you to acquaint yourself with their concerns before going  
18 there and be in a position, hopefully, to inquire of them  
19 more productively when the visit occurs.  
20

21 I think we have indicated that thinking in a general  
22 sense in the letter. We are in your hands as to  
23 timetabling, but rest assured that we will do our level  
24 best to fit in with it.  
25

26 The other thing we have indicated to you is that we  
27 have commissioned a professionally conducted survey of  
28 members of the organisations. We hope that, albeit a  
29 simple survey, it will be of great assistance; we thought  
30 that it would be a valuable exercise to get a current  
31 snapshot, if you like, of clinicians' thinking. We hope  
32 that we will be in a position to produce the results of  
33 that survey fairly quickly. We will, of course, give you  
34 that as soon as it becomes available to us and appropriate  
35 comments can be made on it.  
36

37 THE COMMISSIONER: Mr Nolan, thank you very much. I know,  
38 of course, of the organisations that you nominated, and  
39 I am grateful for the correspondence about the extent of  
40 assistance that they can promise or hope to be able to  
41 provide.  
42

43 As to the timetable for visits, you will have gathered  
44 that there are two programs of visits. One is a series of  
45 familiarisation visits. For example, counsel assisting and  
46 I spent two hours at Royal Prince Albert Hospital this  
47 morning in the emergency department and the intensive care

1 unit looking at the facilities on the ground and talking to  
2 a significant number of staff, including no doubt some of  
3 your members.  
4

5 That will continue. That will not necessarily be  
6 public. It's not intended that that program will be  
7 accompanied by advance cleaning and senior people standing  
8 around pointing at nice things. It's a program where I'm  
9 going to go at different times of the day and night,  
10 together with one or other of the counsel assisting or  
11 solicitors, and speak informally to those on the ground as  
12 things are happening. That's best described, I think, as a  
13 familiarisation program.  
14

15 MR NOLAN: I recall Mr Masterman, when he was the  
16 Ombudsman, used to somewhat euphemistically refer to them  
17 as unannounced visits.  
18

19 THE COMMISSIONER: Yes. I don't think that's euphemistic.  
20

21 As to the second program of the more planned visits to  
22 hospitals to hear from clinicians, when we have determined  
23 the program, we will publish it; it will be available on  
24 the web. We will, of course, let you know, and any  
25 assistance in advance of those that we can get would be  
26 most appreciated.  
27

28 In the traditional way, Mr Nolan, you asked for leave  
29 to appear. I am not going to grant you leave to appear,  
30 because I'm not conducting an adversarial inquiry and there  
31 is no need to have leave to appear, but I am most grateful  
32 for your attendance and your assistance. Thank you.  
33

34 MR NOLAN: Thank you.  
35

36 MR WHYBURN: If the Commission please, my name is  
37 Whyburn, initial R. I am here, as you have just indicated,  
38 Commissioner, not to make an application for leave to  
39 appear but to indicate on behalf of the NSW Nurses  
40 Association that we have an interest.  
41

42 We welcome the Inquiry, and we are committed to  
43 assisting the Inquiry in whichever way possible, including  
44 consulting with counsel assisting and other Commission  
45 staff about various issues, submissions, statements and  
46 potential witnesses. I did send a written submission,  
47 which I assume you have seen, Commissioner.

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THE COMMISSIONER: Thank you.

MR WHYBURN: I don't propose to read it. Suffice to say that the NSW Nurses Association is a registered organisation in this State and has been since 1931. We have approximately 35,000 members who are employed in New South Wales in the public health system, the vast majority of those in the delivery of acute care services. They span the whole range of classifications, from management down to ward staff of a general nature, registered nurses, et cetera.

So, Commissioner, rather than waste more time, if I could just indicate that interest.

THE COMMISSIONER: Thank you, and your organisation is one from whom we will need a lot of help, particularly in some of those work force areas that Mr Tobin touched on in his opening remarks. Thank you for attending.

MS O'SHANNESSY: I'm Leanne O'Shannessy. I'm here for the NSW Department of Health. I would simply like to place on the record that the department intends to cooperate fully with the inquiry and to offer any other assistance that you may require in the course of your investigations.

THE COMMISSIONER: Thanks, Ms O'Shannessy. I should also say that in various meetings that I have already conducted, I have been assured by both the Minister for Health and the director-general of your department of your department's complete cooperation, which of course is necessary. I am grateful for those assurances, and thank you for coming this morning.

MR GRIFFEY: If it please the Commission, my name is Griffey, initial K. I'm here representing my daughter Belinda at Sydney Western Area Health Service. I am here to assist the Commission in any way possible. I think we are aware of each other.

THE COMMISSIONER: Mr Griffey, I know you and I know of your daughter's case and the details of it.

MR GRIFFEY: And I would invite you to visit Belinda in Nepean Hospital.

1           There is one other thing that I think Mr Tobin didn't  
2 mention, which are matters to do with hours of work for  
3 both nursing staff and medical staff. I think the British  
4 medical services have now reduced their hours to be in line  
5 with the ACDU, and I would like that to be taken into  
6 account as well.

7  
8 THE COMMISSIONER: Yes. There is an issue, Mr Griffey,  
9 which we can have discussed with the Commission staff and  
10 you as to whether, in your daughter's particular case, she  
11 is moved from acute care to some other form of care, but we  
12 can tease that out in discussions with you. Thank you for  
13 coming, Mr Griffey.

14  
15           Professor Dwyer, good morning.

16  
17 PROF DWYER: Good morning to you. I am here today wearing  
18 two hats. I co-chair the New South Wales Medical Staff  
19 Executive Council. This is an organisation that represents  
20 all of the doctors in all of the public hospitals in  
21 New South Wales, and we are particularly keen to address  
22 really all the issues that are before you.

23  
24           In particular, I was struck this morning already by,  
25 and pleased to hear about, the need for urgent action that  
26 can be taken immediately. While we are all hoping for  
27 longer-term developments, particularly with promises now  
28 being made by the Federal Government for cooperative  
29 federalism, while we are all anticipating big changes in  
30 the future, there are many, many things that we could do  
31 today that should be done today that would better use our  
32 work force and improve safety and quality immediately.

33  
34           I am also here as representing the Australian Health  
35 Care Reform Alliance, which I founded in 2003. It is an  
36 organisation of 45 different health-related organisations  
37 that speak with one voice on health care reform. We have  
38 been advocating for change, and we believe that most of the  
39 problems in New South Wales are in fact nationwide  
40 problems; there is nothing particularly unique about  
41 New South Wales. Again, our focus is on practical issues  
42 from the frontline troops that work in the health care  
43 system and on what we might be able to do to improve  
44 quality and safety.

45  
46           The only thing I would say in respect of the terms of  
47 reference - and I think they are broad enough to

1 accommodate this, Commissioner - is that it is totally  
2 artificial in this day and age to be looking at acute care  
3 hospital services without looking at the demand pressures  
4 coming from the community and what might be done.

5  
6 There is really no OECD country in the world that  
7 hasn't recognised that the ultimate solution for hospitals  
8 lies not with hospitals themselves but with better care in  
9 the community and swinging the health care system around to  
10 prevention, wellness and looking after sicker people in a  
11 community setting rather than pushing a button and sending  
12 them to hospital.

13  
14 So we look forward to participating in this inquiry,  
15 and we'll help in every way we can.

16  
17 THE COMMISSIONER: Thank you, professor. I read with  
18 interest your opinion piece recently that was published,  
19 and I take on board your comments about what happens before  
20 the patient arrives at the hospital. On one view, if one  
21 can reduce by 15 per cent or 20 per cent the number of  
22 patients arriving at the accident and emergency department  
23 doors of public hospitals in New South Wales, the staffing  
24 questions are of a different order and magnitude.

25  
26 I certainly think that my terms are wide enough to  
27 look at the interface before one gets to the door. Whether  
28 or not I'll spend much time on preventative health programs  
29 may be a different issue, but I recognise that I need to  
30 look at the earlier step than the front door of the  
31 emergency department.

32  
33 Professor, thank you for coming and thank you for your  
34 offer of assistance.

35  
36 MS EGAN: Good morning, Commissioner. My name is  
37 Ingrid Egan. I'm here today representing the Australian  
38 Institute of Radiography, also the quality manager in  
39 radiology across the Northern Area Health Service.

40  
41 I am attending the inquiry today to provide assistance  
42 in terms of evidence and potential solutions in the  
43 delivery of medical imaging services, more commonly known  
44 as radiology, to the acute care setting. Medical imaging,  
45 X-rays, CT, ultrasound and MRI are often marginalised in  
46 the health care debate. Witness to that this morning was  
47 that they were omitted in the opening address.

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Acute care is exponentially relying on diagnostics, such as medical imaging. Between 60 per cent and 90 per cent of all presentations to the ED department end up having some type of X-ray. ED benchmarks put in a three-hour benchmark for turnaround times for diagnostics, such as radiology. Therefore, I want to impress upon you that our growth rate is somewhere between 6 per cent and 12 per cent per year in terms of patients that we are trying to service.

In short, three things I would like to bring to this inquiry are: the mismatch between funding and our service delivery; secondly, the lack of future planning with respect to our new technologies that are ever emerging; and, thirdly, I believe that the reduction in staff and subsequent training and the increased service demands together affect medical error, decreased morale and staff retention in our profession.

I would ask this Inquiry to take the opportunity to allow us to present some evidence. Thank you.

THE COMMISSIONER: Certainly, Ms Egan. One matter that does occur to me is this: one of the specific items that I am charged to look at is the issue of clinical notetaking and record-keeping. It seems to me that your body may have some views which I would find very useful about how that process should be engaged in, and no doubt someone from the Commission will contact you with some specific questions about that. Thank you for your interest.

MRS BISCOE: Good morning, Commissioner. Alison Biscoe. I am representing Avant Mutual Group Limited, which is the merged product of United Medical Protection and MDAV. I think as you are aware, Avant is the largest medical indemnity provider in New South Wales. We have expertise in managing complaints and claims arising from incidents occurring, including within the New South Wales public hospital system.

We feel that we have a good understanding of the causal factors in adverse incidents, in particular, in relation to communications issues between the various levels of medical staff and also in respect of notetaking and record-keeping. We are happy to assist the Commission in any way.

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THE COMMISSIONER: Thank you, Mrs Biscoe, that would be useful. No doubt, you have some information which would assist in terms of helping us to identify some systemic issues across the board, because your organisation does take in a broad geographical range, which may assist us to help identify those. So thank you very much and we will look forward to your help.

MR BURGESS: Good morning, Commissioner. My name is Ian Burgess. I'm with the Australian Orthopaedic Association. A number of our members have a direct interest in the provision of acute care services, and our association and our individual members would be most willing to provide whatever assistance and contribution that we can.

THE COMMISSIONER: Thank you, Mr Burgess. Would you mind telling me, only because I'm entirely ignorant on this fact, what is the difference between your association and the college?

MR BURGESS: We are a subspecialty of the Royal Australasian College of Surgeons.

THE COMMISSIONER: That is how you fit in?

MR BURGESS: Exactly. We work very closely with the college.

THE COMMISSIONER: Thanks very much, Mr Burgess.

MS MEPPM: Good morning, Commissioner. My name is Judith Meppem. I am here representing the College of Nursing, which is a national nursing organisation with a very large focus in New South Wales. They have over 4,000 students per year come through from mainly the acute care services in New South Wales hospitals, educators with current and recent hospital experience and affiliations with many nursing organisations. We would be very happy to assist you in any way. We will be making a submission. We will be available to give evidence if required and we would be able to identify nursing experts for you to interview.

THE COMMISSIONER: Thank you very much, Ms Meppem. I look forward to the help of the college. We need all of your

1 input. Thank you.

2

3 DR McCARTHY: Good morning, Commissioner. I am  
4 Dr Sally McCarthy. I am representing the Australasian  
5 College for Emergency Medicine. We believe that we can  
6 assist you in a number of ways. As you know, emergency  
7 departments are public based at the New South Wales  
8 hospital system and approximately 25 per cent of the  
9 population attends an emergency department in New South  
10 Wales every year.

11

12 THE COMMISSIONER: That is a figure worth repeating,  
13 isn't it.

14

15 DR McCARTHY: Yes, it is. 25 per cent of the population  
16 in New South Wales attends emergency every year.

17

18 THE COMMISSIONER: It gives us an idea of the range of  
19 people and services that are provided through those  
20 departments.

21

22 DR McCARTHY: That's right. We provide acute care across  
23 the aged spectrum and across the disease spectrum. I agree  
24 with Professor Dwyer in terms of really being unable to  
25 consider acute care without considering provision of  
26 community services and also in particular provision of  
27 mental health services and aged-care assessment, both in  
28 nursing homes and at home in the community.

29

30 The college is the standards, training and  
31 credentialing body for doctors and for emergency services  
32 across Australasia. Our particular expertise really is as  
33 the canary in the coal mine of acute health. We have  
34 experienced work force problems perhaps longer than most  
35 other areas of the health service and particularly the  
36 issue of locum doctors and the locumisation of the medical  
37 work force, as well as --

38

39 THE COMMISSIONER: I am not sure that that's a noun,  
40 "locumisation", but I know what you mean.

41

42 DR McCARTHY: We are so familiar with this that we've  
43 coined our own vocabulary to deal with it.

44

45 THE COMMISSIONER: Perhaps I am going to have to learn it.

46

47 DR McCARTHY: Yes. I think you will be hearing quite a

1 bit about it. Even for full-time trainee doctors - and  
2 this is out of what I was going to say - in my own  
3 department I have 30 registrars that I rotate to parts of  
4 New South Wales and other hospitals within Sydney. Three  
5 of those doctors are now full time. The intensity and the  
6 demands on work and really the difficulty of the work  
7 environment is such that trainee doctors really want to  
8 only devote part of their time to working in our emergency  
9 departments across the State now and this obviously has  
10 huge problems for the continuity of care management of  
11 these doctors, training and just maintaining the work force  
12 in general.

13  
14 We have first-hand experience of all the junior  
15 doctors because every junior doctor before registration has  
16 to do a term in emergency. We have first-hand experience  
17 of dealing with overseas trained doctors and particular  
18 challenges that may be presented by relying on an overseas  
19 trained work force.

20  
21 At issue is more who presents to emergency departments  
22 and we can assist you by providing excellent evidence  
23 across Australia of what types of patients come to  
24 emergency and really the evidence doesn't support the  
25 contention that they're all GP patients. Most patients we  
26 get that we think may be managed by the GP are in fact sent  
27 to us from the GP surgery. Rather than this group posing  
28 excess demands on us, it is the patients who we've dealt  
29 with who should be in the hospital wards and the phenomenon  
30 of access whereby up to 40 per cent of our beds can be  
31 filled at any one time by patients who should be out of our  
32 department having finished their emergency care. We also  
33 have first-hand experience --

34  
35 THE COMMISSIONER: Can I just say that I think you can  
36 take it that my view of the terms of reference, as I said  
37 to Professor Dwyer, allows me to look at the interface with  
38 the way in which patients enter the departments and it  
39 clearly allows me to look at the way in which patients  
40 leave the department and the issues surrounding that. The  
41 notion of access block or whatever phrase we want to give  
42 it is something that I think presently, unless I'm  
43 persuaded otherwise, falls within the terms of my inquiry.  
44 I think it is essential that I look at that and the sort of  
45 problem you're talking about is something I'm generally  
46 aware of, the details of which I will have to become a lot  
47 more familiar with.

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DR McCARTHY: We believe that is crucial because with our beds full of patients who have finished our emergency care, we can't treat new arrivals to emergency. We also can assist with designing new work force roles. Work force obviously is a key feature of the terms of reference and emergency physicians and emergency departments, due to the fact that we've had significant work pressures and have trouble maintaining a 24/7 service with a competent work force across the State in all emergency departments, really means we have had to invest in doing a lot of the work in designing new roles and we would be happy to assist there.

We also can assist as regards support services and including information technology and how it affects clinicians providing frontline clinical services. Also, it is really supervision and training both within the departments but also across the acute system in general. Emergency physicians have devised courses which train up general practitioners and others and contribute to a lot of voluntary training across the system and through our departments train many emergency care providers, including ambulance officers, paramedics, nurses and medical emergency teams across the health service through our departments. We look forward to working with you.

THE COMMISSIONER: Thank you, Dr McCarthy. Your college obviously has a very central role to play in the considerations of this inquiry and I will be making a lot of contact with you for your help. Thank you for coming.

DR McCARTHY: I should introduce my colleague, Dr Joseph who is Chair of the New South Wales Faculty of Emergency Medicine.

THE COMMISSIONER: Thank you.

MS WILLIAMS: Commissioner, my name is Ms K Williams. I am here to express the interests of the Health Services Union of New South Wales. The Health Services Union is an industrial organisation with members who are employees of New South Wales hospitals in the public sector and in the private sector. It has some 38,000 members throughout New South Wales.

The members of the Health Services Union include all

1 uniformed officers in the Ambulance Service. Another great  
2 portion of the union membership includes a wide variety of  
3 clinical, managerial and supporting roles within the public  
4 hospital system. I am informed that most senior managers  
5 within the area health service in New South Wales are also  
6 members of the Health Services Union. There are a great  
7 number of medical officers who are also members, allied  
8 health professionals, such as employees in pathology  
9 departments, radiographers and pharmacists are also members  
10 of the union.

11  
12 The HSU has expressed great interest in this inquiry  
13 and can identify a number of areas that they could  
14 contribute information and strategies towards effecting a  
15 satisfactory result.

16  
17 THE COMMISSIONER: Thank you, Ms Williams. I am aware of  
18 your organisation and its nature and indeed it has a  
19 significant membership which will be affected by and have  
20 an interest in the terms of the inquiry. Thank you for  
21 coming.

22  
23 MS AXE: Good morning, Commissioner. My name is Jan Axe  
24 and I am from the Australian Physiotherapy Association. We  
25 are the national peak body representing physiotherapists in  
26 Australia. In New South Wales we represent some 3,200  
27 physiotherapists. Physiotherapists form the largest  
28 contingent of allied health practitioners currently in the  
29 health work force. The APA contends that a robust public  
30 health system is an essential component of the Australian  
31 health system and supports a balanced approach to hospital  
32 care with an increased focus on non-medical services.

33  
34 The APA will make recommendations in a submission that  
35 is consistent with the views we made to the Council of  
36 Australian Governments last year relating to work force  
37 redevelopment and redesign to arrest the decline in the  
38 public health system. As the peak body, we will call on  
39 our qualified and expert clinicians currently employed in  
40 the public health system, particularly in the acute care  
41 services, to contribute to the submission by the APA to the  
42 Commission of Inquiry.

43  
44 THE COMMISSIONER: Thank you very much, Ms Axe. Thank you  
45 for coming.

46  
47 MS BISHOP: Good morning, Commissioner. My name is

1 Heather Bishop. I am secretary to Dr John Graham who is  
2 the Chairman of Medicine at Sydney Hospital and also the  
3 Honorary Emeritus Consultant Physician at Sydney Hospital.  
4 He has asked me to bring this submission in to you and  
5 present it today. He has covered all his points. They  
6 cover health financing, medical and nursing manpower,  
7 management issues for public hospitals and matching acute  
8 bed numbers and hospital services with population numbers,  
9 demographics and local issues. He would also welcome the  
10 chance to be heard at the inquiry.

11  
12 THE COMMISSIONER: Ms Bishop, thank you very much. You  
13 might make the submission available to Ms Follent,  
14 assistant to the inquiry, and would you convey my gratitude  
15 to Dr Graham.

16  
17 MS BISHOP: Thank you.

18  
19 THE COMMISSIONER: Thank you.

20  
21 MS PHILLIPS: Hi. My name is Tori Phillips. I am here as  
22 a concerned family member hoping that your inquiry can  
23 investigate the policies and procedures in relation to rape  
24 crisis centres. My mother has made a submission, I think  
25 she sent it today and she has been in contact with various  
26 other health groups.

27  
28 THE COMMISSIONER: All right, Ms Phillips. Thank you very  
29 much for coming. It is important that we have input from  
30 individuals and members of the public and the most  
31 efficient and easiest way for you to communicate with us is  
32 either with the executive officer or the solicitor for the  
33 inquiry, so I will invite you to speak with Ms Follent when  
34 I have adjourned and give her your details and she'll take  
35 an outline of the area of interest. At the moment, I have  
36 not made any formal decision about what falls within or  
37 outside of the terms of reference. That is something I  
38 will have to learn a little bit more about as I go. I will  
39 certainly take that material into account. Thank you very  
40 much for coming.

41  
42 MS PHILLIPS: Thank you.

43  
44 MS HOOT: Good morning, Commissioner. My name is  
45 Sandra Hoot and I am here representing the Australian  
46 College of Mental Health Nurses. We are a national  
47 organisation with branches in all states and territories.

1 We produce the standards of practice for mental health  
2 nursing across the country. We also produce an  
3 international reference journal.  
4

5 We are here to express an interest in the inquiry,  
6 particularly in relation to acute care and the ED  
7 interface, the community health and hospital interface and  
8 with particular reference to work force issues,  
9 particularly around career development with continuing  
10 education. We will be seeking to make a submission and to  
11 identify mental health experts for you should you require  
12 them. We are also available to give evidence and we are  
13 also canvassing members for their views on this matter.  
14

15 THE COMMISSIONER: Thank you very much. I want to make it  
16 plain that there ought be no misunderstanding that mental  
17 health issues fall within the terms of the inquiry and  
18 clearly, mental health issues in an emergency department  
19 are a constant and regular issue that require the input of  
20 expert nurses. We will need to make a decision and we will  
21 need to have your views about this, as to where the  
22 boundary between acute mental health care services is and  
23 the more longer term or chronic areas and whether there is  
24 a readily definable boundary or not.  
25

26 MS HOOT: There is, yes.  
27

28 THE COMMISSIONER: We can talk to you about that. Thank  
29 you very much for coming in and we're looking forward to  
30 your help and assistance. Thank you.  
31

32 MS HOOT: Thank you.  
33

34 DR KEOGH: Good morning, Commissioner. My name is  
35 Greg Keogh. I am a surgeon and I am here representing a  
36 number of organisations mostly because our members are in  
37 theatre operating on people.  
38

39 THE COMMISSIONER: Where I hope they would be.  
40

41 DR KEOGH: Exactly. The first of these is the State  
42 Committee of the College of Surgeons. The current Chair of  
43 that group is Phil Truscott and I've left his details out  
44 the front. The second organisation is General Surgeons  
45 Australia and both of these organisations have some views  
46 in relation to models of acute surgical themes which are  
47 currently being tested in the system, some of which you may

1 be aware of. The third organisation that I represent is  
2 IMET, the Institute of Medical Education and Training,  
3 which has the oversight of intern placement in New South  
4 Wales. It accredits hospitals in New South Wales for  
5 intern supervision and training and we have some contact  
6 with some of the college training programs in New South  
7 Wales as well. Each of these organisations have some views  
8 and will be very interested in providing whatever  
9 assistance is required.

10  
11 THE COMMISSIONER: Thanks, Dr Keogh. I will be interested  
12 to explore with all of the bodies, but in particular with  
13 IMET, some of the issues that Mr Tobin raised about  
14 short-term and long-term solutions to work force issues.

15  
16 DR KEOGH: Yes, some of those things we certainly have  
17 views on.

18  
19 THE COMMISSIONER: Yes, absolutely. Thank you very much  
20 for coming.

21  
22 MR BIVIANO: Good morning, Commissioner. My name is  
23 John Biviano and I represent the Australian and New Zealand  
24 College of Anaesthetists. We are responsible for education  
25 and training of anaesthetists as well as intensive care  
26 physicians and also pain medicine specialists, so we can  
27 offer assistance in terms of education and training  
28 requirements in hospitals for specialists in those  
29 particular areas and would be very keen to assist you  
30 through either hearings or submissions.

31  
32 THE COMMISSIONER: Thank you. You own Intensivist, don't  
33 you?

34  
35 MR BIVIANO: It's a joint faculty with the College of  
36 Physicians, that's right.

37  
38 THE COMMISSIONER: No doubt I will get to learn all of the  
39 detail of that. Thank you very much for coming. I look  
40 forward to the assistance from your college.

41  
42 DR ELLIS: Good morning, Commissioner. My name is  
43 Rose Ellis and I'm representing the NSW Rural Doctors  
44 Network. We are an organisation that provides support  
45 services to 1,600 rural general practitioners across  
46 New South Wales as well as being the designated rural  
47 work force agency for New South Wales.

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We intend to provide a written submission to the Commission but also offer our services. We are involved in work force planning, so areas of work force that have been covered in the opening comments are pertinent to the work that we provide.

THE COMMISSIONER: Absolutely. Thank you, Dr Ellis, for coming. Staff of the Commission may also speak to your organisation about some suggestions as to where the inquiry ought to visit, so there might be some informal contact about that. We would be grateful for such input as you can give us, because whilst we will be undertaking an extensive program of visiting, we won't be able to get everywhere. It will be a matter of getting to the places that are the most effective in hearing from people. Thank you very much for coming.

MS HALOU: Good morning. My name is Amal Halou. I am representing the Australian Nurse Practitioner Association, which is a professional body representing nurse practitioners. We would like to assist and discuss any changing models of care by the use of nurse practitioners. Some of these models recognise that not all patients need to be seen by a doctor.

Currently in New South Wales there are over 100 nurse practitioners authorised, with only 50 per cent in positions, with another 50 being rolled out by the end of the year that are willing to go there, all over New South Wales. Thank you.

THE COMMISSIONER: Thank you. I am aware of the importance of the role of nurse practitioners, and I think Mr Tobin really touched on that in the course of his opening remarks, to the extent of how can we look at providing services by different ways than the traditional means. Thank you for coming. I look forward to receiving your submission.

MR de CONSTANTIN: Good morning, Commissioner. Jeremy de Constantin. I provide management consulting services primarily to the private hospital sector. I am currently conducting a diagnostic study with Professors Amy Edmondson and Jim Detert from Harvard and Cornell into why some people do and don't speak up in hospitals. It's a pilot study, and I would be very happy to share both the

1 methodology and the outcomes with the Inquiry.

2

3 THE COMMISSIONER: That no doubt will go to questions of  
4 communication?

5

6 MR de CONSTANTIN: Correct, and culture.

7

8 THE COMMISSIONER: And culture, particularly between  
9 hospital staff and patients, and within hospital staff as  
10 well?

11

12 MR de CONSTANTIN: Correct, and voicing upwards within the  
13 hierarchy, yes.

14

15 THE COMMISSIONER: That's very interesting. Thank you  
16 very much for telling us about that. That is directly  
17 likely to be of most help. I will get one of the staff of  
18 the Commission to speak to you about that.

19

20 MS RANKIN: Good morning. My name is Karen Rankin and  
21 I represent the Australian Confederation of Paediatric and  
22 Child Health Nurses, New South Wales branch. We represent  
23 paediatric and child health nurses here in New South Wales  
24 and we would be very happy to collaborate with the  
25 Commission.

26

27 We have identified a number of areas of concern, and  
28 I will outline some of those: the co-location of children  
29 in adult wards and adult services, the competency of nurses  
30 caring for children in those services, the staff-patient  
31 ratio for paediatrics specifically, and children with  
32 mental health disorders and how they are managed in the  
33 New South Wales health services. We would be happy to work  
34 with you, and we can certainly provide you with expert  
35 paediatric nurses' opinions.

36

37 THE COMMISSIONER: Thank you very much.

38

39 MR CLEARY: Good afternoon. Commissioner, my name is  
40 Michael Cleary. I'm a registered nurse and I am the  
41 executive director for the Nurses and Midwives Board.

42

43 The Nurses and Midwives Board is a registering  
44 authority for nurses and midwives in New South Wales and  
45 the board is established under the Nurses and Midwives Act  
46 1991. Among its functions the board establishes education  
47 standards for nurses and midwives and it registers nurses

1 and midwives with qualifications obtained in other  
2 countries.

3

4 The board establishes professional standards, such as  
5 the Code of Professional Conduct for Nurses and Midwives.  
6 The board consults with the Health Care Complaints  
7 Commission in regard to complaints about individual nurses  
8 and midwives, and it deals directly in some cases where  
9 impairment or professional performance is an issue.

10

11 There are more than 100,000 nurses and midwives in  
12 New South Wales, approximately 83,000 registered nurses,  
13 17,000 enrolled nurses and, as you have just been informed,  
14 more than 100 nurse practitioners. Nurses provide care  
15 which is integral in the acute care services in this State.

16

17 The functions of the Nurses and Midwives Board are  
18 established by legislation, and the board will need to  
19 consider further the extent to which its legislated  
20 functions intersect with the terms of inquiry of the  
21 Commission. However, I anticipate that the board will  
22 offer a submission to the Inquiry and will cooperate with  
23 the inquiry in any way in which it is permitted. The board  
24 is committed to protection of the public, and I wish to  
25 assure you that you have the full support of the board.

26

27 THE COMMISSIONER: Mr Cleary, thank you very much and  
28 thank you for coming. No doubt, we will be hearing from  
29 you in due course.

30

31 That seems to come to the end of the range of  
32 individuals and organisations that have kindly attended  
33 this morning to indicate their assistance to the inquiry.

34

35 I want to give some directions about written  
36 submissions. There will be some copies of these available,  
37 and of course the transcript of this morning's proceedings  
38 will be put on the website as soon as that can be managed.

39

40 The purpose of these directions is to, firstly, put a  
41 time frame around them. Some of you might think that the  
42 time frame is impossibly short. I'm not going to move it.  
43 I want six months to do the inquiry, and I need your help  
44 as much as anything else to achieve that. But the real  
45 purpose is to encourage you to put them into a format and  
46 focus them so as, when we receive them, we will be able to  
47 understand them, process them and put them together to

1 identify issues and the like.

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1 submission. Where the submission refers to documents, for  
2 example in discussing the current policy of the New South  
3 Wales Government, a complete reference should be provided,  
4 together with, if available, reference to a website where a  
5 copy of the documents may be obtained.

6  
7 Lastly, I would ask that, wherever possible, in  
8 addition to being in writing and lodged with the inquiry,  
9 submissions should also be provided in soft copy on a disk  
10 in an appropriate Word format. The precise technical  
11 detail of that will be made available, but you will  
12 appreciate that with the amount of material that we are  
13 likely to receive, unless it is in both paper and  
14 electronic form, managing it will be a very burdensome  
15 task.

16  
17 They are the directions that I wish to make. As  
18 I say, some copies will be available and otherwise they  
19 will be on the Inquiry website.

20  
21 Before I close, Mr Tobin, is there anything further  
22 that you wish to raise?

23  
24 MR TOBIN: No, Mr Commissioner. Thank you.

25  
26 THE COMMISSIONER: In that case, I will close the formal  
27 first sitting of the Commission. I would like to thank  
28 those who have attended and expressed their interest and  
29 their desire to assist the Commission. The task that we  
30 have before us is both significant and large, and, again,  
31 I want to reassure the public that I will be dedicating  
32 myself to that task.

33  
34 Finally, I wish to record my gratitude to the Chief  
35 Judge of the District Court and the staff of the District  
36 Court for making available these facilities this morning  
37 and providing us with services this morning.

38  
39 On that basis, I will adjourn.

40  
41 AT 12.10PM THE COMMISSION WAS ADJOURNED ACCORDINGLY

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**1,000** [2] - 11:15, 11:28  
**1,284** [1] - 20:10  
**1,500** [1] - 11:46  
**1,600** [1] - 35:45  
**1,769** [2] - 11:35, 11:40  
**1.2** [1] - 19:14  
**1.523** [1] - 18:11  
**10** [1] - 17:27  
**10.00am** [1] - 1:24  
**100** [3] - 8:44, 36:27, 38:14  
**100,000** [1] - 38:11  
**104,000** [1] - 17:32  
**11** [1] - 19:37  
**115** [1] - 18:2  
**115,000** [1] - 17:35  
**116,000** [1] - 17:35  
**12** [1] - 27:9  
**12.10PM** [1] - 40:41  
**122** [1] - 12:29  
**123,000** [1] - 17:35  
**13** [1] - 3:37  
**14** [1] - 1:24  
**15** [1] - 26:21  
**16** [1] - 8:11  
**17,000** [2] - 13:28, 38:13  
**18** [3] - 11:19, 11:47, 18:39  
**19,000** [1] - 18:6  
**1931** [1] - 24:6  
**1983** [3] - 2:16, 3:39, 4:33  
**1991** [1] - 37:46

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