TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE

PETITIONS TEAM

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

UNITED NATIONS OFFICE AT GENEVA

8-14 Avenue de la Paix

1211 GENEVA 10, SWITZERLAND

For Communications to the United Nations Human Rights Committee ("the Committee") under the First Optional Protocol to the International Covenant on Civil and Political Rights ("ICCPR")

STATE PARTY- COMMONWEALTH OF AUSTRALIA (AUSTRALIA)

AUTHOR TO THIS COMMUNICATION- DR HELEN TSIGOUNIS

Date- 20/4/2018

(1) INFORMATION ON THE COMPLANANT.

Name: Helen Tsigounis
Date of Birth: 01/10/1967
Place of Birth: Melbourne, Australia
Gender: Female
Nationality: Australian
Ethnic Background: Greek
Profession: Medical Doctor
Passport ID: N8997228
Postal Address: 18 Longview Avenue, East Bentleigh, 3165
Melbourne, Victoria, Australia.
Email: helentsigounis@gmail.com

My parents and grandparents migrated to Australia from Greece in the 1950's.
My Schooling was at Korowa Anglican Girls School, Melbourne.
I studied Medicine at Monash University and graduated in 1997.
I worked at the Frankston Hospital in 1998.
I passed reciprocity medical exams in Athens Greece and attained my European registration as a doctor in 1999.
I worked in Athens as a doctor in anaesthetics and Intensive Care in 2000 and 2001.
In 2002 and 2003 I was employed as a doctor at the Townsville Hospital in Queensland, Australia.
On the 26 March 2004 the Medical Board of Queensland (MBQ) made a decision to cancel my registration as a doctor indefinitely after a 10 month Investigation of my work at the Townsville Hospital
From 2003 up to 2008 I was involved in court proceedings against the decision by the MBQ.

I have since been unable to work as a doctor in Australia and my health has suffered as a result of the events in this communication.

(2) STATE CONCERNED/ARTICLES VIOLATED

MY COMPLAINT IS AGAINST AUSTRALIA (STATE PARTY)

I am submitting the communication as a victim of the violations of the named Covenant as set forth below:

Article 14.1: All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.
In relation to this Article widespread violations have occurred, namely:
Violations to a fair and competent trial established by law.
Violations to having Impartial Judges determining my case - without bias or prejudice.
Violations relating to the conduct of the judges determining my case
Violations to “equality of arms”
Violations to “equality before the Law”- relating to failure of the Judges to enforce the State Party’s Laws and apply them to my case.
Violations relating to the Jurisdictional scope of a judge and court
Violations to the Right of Reasoned Judgements according to the laws governing the fact- finding exercise of the judge.
Alleged Judicial corruption and criminality.
Violations to having an Independent trial-without “external influence or interference”
Violations to the proper administration of justice.

Article 2.1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
My Human Rights under this Article were violated by the State, including Violations to Article 14(1), Article 26, Article 2.3 (a) and (b), Article 5.1 and Article 17.

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Article 2.3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

In relation to this Article, The State has refused to grant me remedy for the violations of my human rights under the present covenant, a violation to Article 2.3(a).
The State has denied me a competent judicial, administrative, legislative and other Government processes in order to achieve a remedy for the violations. Article 2.3(b).

Article 5. 1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.
The State and many other officials involved in my case have violated this section of the covenant

Article 26: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
In relation to this Article the State has violated my rights in that they have refused to enforce laws applicable to my case ("equality before the law")

Article 17. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

In short, my case is about being targeted by the Freemasons who appear to network as a *"private intelligence network*" within the State holding positions of power. This targeting has included the States intelligence Agencies-ASIO.
They are known to target individuals who are either perceived as threats or have made an enemy of a Freemason, and through the use of their network, orchestrate a victim's destruction.
In my case it was the unlawful and malicious destruction of my medical career followed by an attempted cover up of this crime through their influence of the legal and judicial professions.
Through their control of the media there have also been unlawful attacks to my honour and reputation
I have written and published a book about the alleged legal and judicial corruption involved in my matter pointing out the legal and judicial errors of law and the intentional judicial perversion to the course of justice. My Book contains copies of the evidence before the courts (transcripts and exhibits), court submissions, judgements, and other formal documents relevant to my case**.** [1]

Over the years I have been gang-stalked, illegally surveilled by the State, have had my computer, court documents and hard copies of my published book stolen from my home. .I have also had my computer hacked numerous times and have recieved death threats.

(3). ADMISSABILITY.

I submit that this claim is admissible for determination by the Committee pursuant to the First Optional Protocol and in satisfaction of the Committee's Rules of Procedure.
This is my first Communication to the United Nations.
My matter is not being examined under another procedure of international investigation or settlement.

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1 The Red Back Web Book. Dr Helen Tsigounis. ISBN: 978-960-93-2463-2. Published in Athens Greece
Link: http://docdro.id/dOiUm27.
Link 2: https://www.docdroid.net/ailNq4b/the-red-back-web-text.pdf

(4) EXHAUSTION OF DOMESTIC REMEDIES

Under Article 5 par 2(b) I have exhausted all domestic remedies.

(i) COURT CASES:

DISTRICT COURT OF TOWNSVILLE HEARING-TRANSCRIPT- *Helen Tsigounis (Appellant) v The Medical Board of Queensland (Respondent) No D1136 of 2004*[2]
Counsel acting for the MBQ was Mr David Tait.
Numerous lawyers were employed to conduct my case but each time I found myself "self representing".

FIRST PART OF DISTRICT COURT HEARING: Day1-3 23/8/2004-25/8/2004
The Case was adjourned by the District Court Judge on the third day of the hearing stating as reason that not enough court time was placed down by my then counsel Mark Dreyfus QC (who had organised the court hearing) to complete the hearing.

SECOND PART OF DISTRICT COURT HEARING: Day 4-14, 31/1/2005-12/2/2005

THE DISTRICT COURTJUDGEMENTS.

District Court Judgement[3] dated 11/5/2005
District Court Judgement[4] dated 12/7/2005**.**

SUPREME COURT OF QUEENSLAND COURT HEARING
Helen Tsigounis (Appellant) v Medical Board of Queensland (Respondent) (CA No 4611 of 2005)
Counsel acting for me was Tony Morris.
Counsel acting for MBQ was David Tait.

Supreme Court of Queensland –Court of Appeal Hearing. Transcript. [CA No 4611 of 2005][5]

SUPREME COURT JUDGEMENT[6]

LEAVE FOR APPEAL AT THE HIGH COURT OF AUSTRALIA- I self-represented.
Special Leave Refused [2007] HCATrans 234 (24/05/07**)**[7]**.**

(ii) SENATE INQUIRIES

(a) FEDERAL SENATE INQUIRIES.

Federal Senate Inquiry-Submission Into the *Complaints Mechanism Administered under the Health Practitioners Regulation National Law* (18/1/2017)
Submission accepted and filed. (**Attached Document 1)**
No Remedy was offered.

Federal Senate Inquiry Submission Into *Medical Complaints Regime* (16/02/2016)

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[2] District Court Hearing Transcript: *Helen Tsigounis (Appellant) v The Medical Board of Queensland (Respondent) No D1136 of 2004 (can be forwarded upon request)*
[3] District Court of Townsville Judgement.
Tsigounis v Medical Board of Queensland [2005] QDC05-103- 11/5/2005
Link: https://archive.sclqld.org.au/qjudgment/2005/QDC05-103.pdf
[4] *District Court of Townsville Judgement.*
Tsigounis v Medial Board of Queensland [2005] QDC05-177, 12/July 2005.Link: https://archive.sclqld.org.au/qjudgment/2005/QDC05-177.pdf
[5] Supreme Court of Queensland Hearing. Transcript. [CA No 4611 of 2005]
Link: http://docdro.id/dn0YwQ7.
Link 2: https://www.docdroid.net/dn0YwQ7/supreme-court-transcript.pdf
[6] Supreme Court of Queensland Judgement.
Helen Tsigounis v Medical Board of Queensland [2006] QCA 295 (15 August 2006)]
Link: https://www.queenslandjudgments.com.au/download/case?rep=58901
7 High Court Transcript. Tsigounis v Medical Board of Queensland [2007] HCATrans 234 (24 May 2007)
Link: http://www7.austlii.edu.au/cgi-bin/sign.cgi/au/cases/cth/HCATrans/2007/234

Submission Accepted and filed. **[Attached Document 2]** .No Remedy was offered.

(b) STATE SENATE INQUIRIES

Public Interest Disclosure to Queensland Parliament dated July 2013[8].
Response to Public Interest Disclosure as above dated 21 August 2013. No Remedy was offered.
Submission to Queensland Commission the *"Tony Morris Inquiry",* dated 4/7/2005, 8/5/2005 and 26/6/2005 in relation to MBQ corruption and criminality. There was no remedy for me.

Public Interest Disclosure to Victorian Parliament dated 8/4/2015.[9]
There was no Remedy for me

(iii) LETTERS TO NATIONAL AUTHORITY FIGURES AND GOVERNMENT BODIES

Complaint to Chief of Justice of Queensland, asking for a judicial review of my case (25/09/2013). There was no Response from the Chief of Justice of Queensland despite numerous emails sent to him after the submission of this complaint. **[Attached Document 3]**

Complaint against employed lawyer Mark Dreyfus QC to the Victorian Barr Ethics Committee dated 01/12/2004 [File No BAR/04/086]. **[Attached Document 4]**

Mark Dreyfus was part of the Victorian Bar Ethics Committee at the time of my complaint. The issues I had raised were not acted upon and my complaint was dismissed. Mark Dreyfus has since been promoted to Attorney General of Australia and is currently Shadow Attorney General.

The following letters of complaints were in relation to the Medical Board of Queensland making false complaints against me and in relation to the alleged judicial corruption and unfair court trials asking for a remedy. In all cases there was refusal of Authority figures to intervene. These documents can be forwarded upon request.

Public Interest Disclosure to Queensland Parliament August 2013.
Complaint to Queensland Ombudsman by Solicitor Andonis Kyriakou on my behalf.
Letters of Complaint to Queensland Ombudsman on 25/1/2005, 28/2/2005 and 2/8/2005.
Complaint to Senator Jacinta Collins 2003
Letter to Senator John Hogg by Senator Jacinta Collins -- 4/6/2003
Letter of complaint to Senator John Hogg, Deputy President of the Senate-16/4/2004
Letter to Senator, David Davies-Member of East Yarra
Letter to Senator of Queensland-Santo Santoro-26/1/2005
Letter to Tony Abbott MP, Department of Health and Ageing- 16/4/2004
Letter to Tony Abbot, MP, Department of Health and Ageing- 23/7/2004
Letter to Tony Abbott, MP -Department of Health and Ageing- 26/1/2005
Letter to Victorian Ombudsman-George Browner-17/4/2004
Letter to the Legal Ombudsman- 24/1/2005
Letter to Prime Minister- John Howard - 26/1/2005
Letter to Prime Minister and Cabinet-14/3/2005

Letter to Opposition Leader Mr Lawrence Springborg (10 pages)-8/5/2005

Letter to Queensland Premier, the Hon Peter Beatie, MP (10 pages)-7/9/2005

Complaint to Crime and Misconduct Commission of Queensland-25/1/2005

Complaint to Crimes and Misconduct Commission, Queensland-24/2/2005

Complaint to Crimes and Misconduct Commission-14/3/2005

Letter to Chief Magistrate (NSW) John Pascoe-5/5/2005
Letter to High Court Judge-Justice M.D.Kirby -High Court of Australia-26/9/2005

[8]Public Interest Disclosure to Queensland Parliament by Dr Helen Tsigounis,dated July 2013.
[9]Victorian Parliament - Public Interest Discosure, (8/4/2015) Link: http://docdro.id/imBPF5T

Attorney General of Australia- Complaint made asking for remedy based on violations to my human rights dated 28/4/2018. No Response to date.

(iv) AUSTRALIAN HUMAN RIGHTS COMMISSION

A complaint was made detailing the violations of my human rights under the ICCPR as in this communication dated 28/4/2018. This document of complaint can be made available to the Committee upon request. The complaint was dismissed. It appears that the function of the Australian Human Rights Commission, as is evident from my case, is to cover up government corruption and violations to one's human rights rather than to address them and mediate remedy. This reveals extreme corruption which needs to be addressed by a body of international standing.

My attempts since the High Court Decision, and, in particular since my submission to the last Federal Senate Inquiry (18/1/2017) to find legal representation to help me attain remedy for the violations to my human rights through further legal or administrative action have been unsuccessful. One counsel telling me that *"helping you is going against the system".*

It appears that the political climate in the State Party's System is and was to deny me independent legal representation and deny me my human rights to the law and justice. Thus, any further court or administrative appeal for a remedy is in practice unavailable due to the controlling and un-democratic influence of the State over the courts, the legal profession and other regulatory professional bodies.

As will be seen, even the lawyers who had accepted to take on my case early on were not working for my interest and the interest of justice.
Despite having paid over 600,000 dollars in legal fees, many of the lawyers would take the money and then withdraw from the case at crucial points or and try to obstruct the case by deleting or ignoring evidence in my favour.

Another factor of importance is the power of the Freemasonry within the legal profession and the State's system.
This is of vital importance as all the judges hearing my case were Freemasons.
Knowing that a conflict of interest may arise for freemasonic judges in court cases where the masonic oath, to protect ones brother, conflicts with their judicial oath, to administer justice where this may give rise to a Masonic miscarriage of justice.
As I allege the malicious destruction of my career and the miscarriage of justice that followed in my case was due to a Freemasonic conspiracy, any further appeal to a court or/and authority figure will most likely to be interfered with by this group and yield just another unsuccessful outcome for me with further violations to my human rights.

This communication is made with no legal assistance.

(5) STATE LAWS BREACHED IN MY CASE

Article 26 has been violated by the State in relation to "equality before the law" where breaches to the following State and Federal Laws have not been enforced in my case by the judges involved in my case nor by other authority figures in the States system.

1.Commonwealth Crimes Act (1914)(a serious Commonwealth crime under Section 15GE is defined and includes Fraud, Perversion the course of Justice and bribery and corruption by an officer of the Commonwealth, State or Territory).
2.Criminal Law Amendment (Theft, Fraud, Bribary and related Offences) Act 2000 (Section 135-Conspiracy to defraud and general dishonesty, Section 136- False or Misleading statements, Section 137- False or misleading information or documents, Section 141-Bribery, Section 142-Abuse of Public Office, Section- 143/144- False documents, Section 145-Offences related to forgery, Section 149- Obstruction of Commonwealth Officials.
3.Criminal Code Act 1995 (Commonwealth law) (Division137- False or misleading information or documents, Division 141- Offences related to bribery, Division 142- Abuse of Public Office, Division 143- False Documents, Division 145-Falsification of documents)

4.Criminal Codes Act (1899)(Queensland) -(Chapter 35-Criminal Defamation) and (Chapter 16, Offences Related to the Administration of Justice- attempting to pervert the course of justice, conspiracy to defeat justice, judicial corruption, perjury,) deceiving witness, damaging evidence with intent, conspiracy to bring false accusations)
5.The Crime and Misconduct Act 2001.Queensland. (Division 3(38 and 39)- Duty to notify the Crime and Misconduct Commission of official misconduct)
6.Crimes and Corruption Act 2001. Queensland. (Under the *Crime and Corruption Act 2001*, corrupt conduct is conduct by anyone that adversely affects a public agency or public official so that the performance of their functions or the exercise of their powers: is not honest or impartial, or knowingly or recklessly breaches public trust, or involves the misuse of agency-related information or material.
Under the Crime and Corruption Act, corrupt conduct includes an attempt or a conspiracy to engage in the conduct, as well as neglect, failure or inaction that adversely affects a public agency or official in the ways described above. Fraud and theft are examples here.
7.Medical Practitioners Registration Act (2001) Queensland. (Division 4, Subdivision 7 sections 91 to 96) and (Division 4, Subdivision 6)
8.The Health Practitioners (Professional Standards Act) Act 1999, Queensland. Division 4 subdivision 3 section 31.
9.Australian Human Rights Commission Act 1986 (makes it unlawful to discriminate against a person based on issues such as political opinion, religion, sexual preference, impairment etc)
10.Charter of the United Nations Act.1945. (Violations to human rights under the civil and political treaties and their optional protocols)

(6) FACTS OF THE CLAIM

The Human Rights Committee has held that the fair trial guarantees provided in Article 14 of the ICCPR constitute an absolute right that is not subject to any exceptions.[10]
My right to a Fair Trial was violated on many levels during the pre-trial, trial and post-trial events.

1.THE MEDICAL BOARD PROCEDURE AND PROCESS-PRE-TRIAL VIOLATIONS

I had been working at the Townsville Hospital, Queensland, as a doctor with general registration with Internship conditions and with psychiatric conditions placed on my registration, from April 15 2002 until 15 May 2003. On this latter date I reported to the MBQ (under Division 4 subdivision 7 section 91(1) of *the Medical Practitioners Registration Act (Qld) 2001*) that I had completed my internship requirements and forwarded to them an application for General Registration without internship or psychiatric conditions.
With this application I forwarded the formal Internship Assessments by my supervisors, documents of support by the Townsville Hospital medical administration and Independent Psychiatric Reports. **[Attached Document 5)**

I then resigned from the Townsville Hospital on 15 May 2003 as I wanted to organise work in the future in Melbourne, where I was from.
The MBQ refused to grant me this new registration and instead began a process tainted by procedural errors, lack of due process and lack of natural justice.

The MBQ began witch hunting me and soliciting complains against me from people at the Townsville Hospital for a 10- month period beginning 2 days after I resigned from the Townsville Hospital and after my application**.**

After this 10-month period on the 26 March 2004 a formal notice was issued to me cancelling my registration indefinitely as a doctor under section 88(3) of the Medical Practitioners Registration Act, Queensland 2001 **(Attached Document 6]**

These complaints were put forth to me for the first time up to 10 months after I resigned from the Townsville Hospital and were clearly solicited by the MQB Lawyers visiting the Townsville Hospital and telling people to make complaints against me.

[10] Human Rights Committee, General Comment No. 32, Article 14: Right to Equality Before Courts and Tribunals and To a Fair Trial, U.N. Doc. CCPR/C/GC/32 (2007), Para. 19. See also, Gonzalez del Rio v. Peru, Communication No. 263/1987, U.N. Doc. CCPR/C/46/D/263/1987 (1992), Para. 5.2. ("The Committee recalls that the right to be tried by an independent and impartial tribunal is absolute right that may suffer no exception.")

The following is a section of the transcript during the District Court Hearing where I cross-examine Nurse Webber (an MBQ witness) [11]

"Appellant (me)*: Did you just decide to make a statement and a complaint out of the blew 10 months after I left the hospital?*

Nurse Webber: *Well we were given an envelope from some solicitors to say there was court proceedings about you, dealing with you, and that we need to go to court and that's when I met up with the solicitors that are here.*

Appellant: *And did they give this envelope stating there were court proceedings to all nurses in the hospital?*

Nurse Webber*: There was me, Rachel, Megan, because we were doing most of the shift coordinating"*

To a similar question during the District Court Hearing, Nurse Lawty replies:[12]

*"**Nurse Lawty**: I was contacted as an overall group by the solicitors- Andrew Forbes (Solicitors acting for the MBQ in this hearing with Mr David Tate as Counsel), I believe around the time end of 2003 early 2004*

.

Appellant*: And was it Andrew Forbes definitely?*

Nurse Lawty: *Yes.*

To a similar question Dr Lucas states:[13]

Dr Lucas*: I was approached and asked to make a formalised statement"*

When I asked him who had approached him he states:[14]

"Dr Lucas*: I don't know specifically, know the name, but solicitors were involved, in this proceeding I would expect.*
I then said to him *"Do you think its odd that you were approached to make a statement?"*

The Judge intervened and said "*I do not think its something he can answer"*

Based on the *Medical Practitioners Registration Act (2001) of Queensland, Division 4, Subdivision 7, Section 91 to 96 and Division 4 Subdivision 6*) this MBQ procedure was infested with procedural errors

My Counsel at the time, Mark Dreyfus QC, failed to take action on these issues, although he acknowledged the following in a memorandum dated 17 February 2004:
During this meeting with Counsel I ask Mr Dreyfus: *"Can we stop the MBQ from issuing one Show Cause Notice after another in their attempts to delay the process whilst they searched for more evidence against me?"*
Mr Dreyfus replied *" In Short No*" but then added, *"The MBQ is incompetent in the manner they are dealing with your issue and there are numerous errors in the Boards process".*
In a memorandum dated 12/2/2004 Mr Dreyfus calls the actions of the MBQ in this pre-trial period as "*outrageous, extraordinary, bizaare and crazy".*
Despite this, Mr Dreyfus failed to act on the numerous errors in the MBQs process and procedure when determining my matter and failed to apply the laws in my favour.

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[11] . District Court of Townsville Evidence.
Dr Helen Tsigounis v Medical Board of Queensland [D1136 of 2004.]- Evidence, Transcript (Page 656)
[12] . District Court of Townsville Evidence. Transcript.
Dr Helen Tsigounis v Medical Board of Queensland [D1136 of 2004.] – Evidence, Transcript (Page 416 and 417**)**
[13] District Court of Townsville. .Dr Helen Tsigounis v Medical Board of Queensland [D1136 of 2004.] Evidence, Transcript (Page 485)
[14] . District Court of Townsville Dr Helen Tsigounis v Medical Board of Queensland [D1136 of 2004.] Evidence, Transcript (Page 489)

The Subject of the Appeal was whether I completed internship requirements satisfactorily and whether psychiatric conditions should remain on any further registration I may have. But Mr Dreyfus was allowing material and complaints against me that were not part of internship requirements and were during a short period (2 weeks) that I had worked in cardiology after I was promoted by the hospital from Intern to Resident Medical Officer (the hospital had assumed at the time that my application to the MBQ for completion of internship would succeed and had offered me a position for another year as an RMO, the natural progression after completion of internship requirements.). These irrelevant complaints, which made up 90% of the complaints against me, were erroneously allowed as material before the court in support of the MBQs argument that I had not completed internship requirements due to incompetency.

This pre-trial procedure by the MBQ and by my employed counsel in dealing with my matter constituted an unfair process and is to be seen as pre-trial bias.

Furthermore this pre-trial unfairness is perpetrated when it was agreed between the MBQ and my Counsel, Mark Dreyfus to organise the Appeal Hearing before a single District Court Judge sitting alone without "Assessors", (*Health Practitioners (Professional Standards Act) Act 1999, Queensland. (*Division 4, subdivision 3 section 31).
Certainly there was plenty of time since my application to the MBQ was refused, to organise a Tribunal with Assessors as the law required.

Further, Dr Barry Hodges was a MBQ witness who was to give evidence in my case. Before the trial he informed Mr Dreyfus and myself that he knew the District Court Judge, Judge Clive Wall, who had been appointed to decide on my matter at the District Court of Townsville. I instructed Mr Dreyfus in writing to have this judge disqualified from the hearing of my case based on this issue, but Mr Dreyfus refused to do this. (See Attachment 4- The Dreyfus Complaint)

2. THE COMPLAINTS BEFORE THE COURT

There is a clear malicious criminal conspiracy to commit fraud apparent in the complaints against me as in the evidence before the courts.
Involved in such behaviour are the following witnesses: Dr Karen Yuen, Dr Robyn Scholl, Dr David Cooksley, Dr Peter Keary, Dr Mark Elcock, Dr Julia Ashley and Dr Niell Small.

This point was overlooked by the judges hearing the case and therefore "State Party" laws were not enforced on this issue. Of relevance are the State and Federal Criminal acts mentioned in section 4 of this document and include "*conspiracy to bring false accusation"*, "*fraud", "false documents", "perjury,* and *"damaging evidence with intent"*
In fact this issue was a point of cover up by the judges hearing the case and by my employed lawyers who refused to acknowledge and address this issue.

There are many examples to illustrate this claim from the evidence before the court hearings.
One example of this is *"the bacterial meningitis patient", t*he most serious of the allegations against me (as stated by the MBQ).

This patient was identified as Jarrad Young. His medical notes were subpoenaed and they were included in the evidence before the court hearings[15] (Evidence before the District Court Hearing-Exhibit 40. *Helen Tsigounis (Appellant) v The Medical Board of Queensland (Respondent) No D1136 of 2004**)***

The medical files clearly reveal this patient did not suffer meningitis. In fact all tests performed for bacterial meningitis were negative. It was later revealed he suffered recurrent uncomplicated headaches because he worked in a mine.

Dr Karen Yuen's evidence before the Court Hearings (Signed Documents) (Medical Board of Queensland delegate.) [- Exhibit 1.Dr Karen Yuens Report. *Helen Tsigounis (Appellant) v The Medical Board of Queensland (Respondent) No D1136 of 2004)*

[15] Evidence before the District Court Hearing-Exhibit 40. *Helen Tsigounis (Appellant) v The Medical Board of Queensland (Respondent) No D1136 of 2004. Link:* http://docdro.id/BmhSVGn

Dr Karen Yuen gives the following evidence before the court in relation to patient JY, despite having access to the true information regarding this patient.

"*Dr Tsigounis saw a patient with meningitis in the Emergency Medicine. A lumbar puncture was performed; the patient was later recalled when the Lumbar puncture results indicated bacterial meningitis"*

Facts revealed from the medical notes: The Lumbar Puncture results excluded bacterial meningitis as did all other tests performed. Thus Dr Karen Yuen's evidence before the court was false, misleading and with intent to cause harm. Dr Karen Yuen gives this evidence despite having access to the Medical Files of this patient.

Dr Karen Yuen also gives the following evidence in relation to the "cervical/rectal " incident that was before the court as a complaint against me:

"A patient required a vaginal swab. A rectal swab was performed then a vaginal swab using the same swab. The patient asked Are you a doctor?

No patient was identified and she couldn't recall who told her this.

Dr Yuen also gave the following evidence:

"Dr Tsigounis discontinued her Emergency Department term after 2 weeks.

The hospital records and all reports that were before Dr Karen Yuen and in the court evidence reveal I had worked in the Emergency Department for 18 weeks before I was asked to work in another area that had a shortage of doctors.
Dr Karen Yuen makes this statement in an attempt to malign me, to destroy my reputation and my career. In stating the above, Dr Karen Yuen attempts to falsify the truth and give the illusion that I had not met the internship requirements of working in Emergency Medicine for at least 10 weeks as defined by the Medical Practitioners Registration Act"[16]

It is extraordinary that a member of the MBQ would behave in such a manner without fear of the law.

Dr David Cooksley's evidence (MBQ witness) before the District Court hearing as in his signed Affidavit is as follows: (Exhibit 5 of *Helen Tsigounis (Appellant) v The Medical Board of Queensland (Respondent) No D1136 of 2004).*

"Dr Tsigounis attended a patient with acute bacterial meningitis. She correctly diagnosed this condition and performed a lumbar puncture. One dose of intravenous antibiotic was administered but Dr Tsigounis then discharged the patient home from the Emergency Department without discussing the case with the emergency registrar. The patient was then recalled and fortunately suffered no harm from this incident."

Dr Cooksle'y evidence regarding patient Jarrad Young is very specific giving one the appearance that he had seen this patient or at least read the medical files of this patient.

When I cross -examined Dr Cooksley during the District Court Hearing he admitted he had not seen this patient nor read the Medical files before making these false statements and before signing his Affidavit.[17]

This was not an error made by Dr Cooksley as he makes repeated false statements to the MBQ over a 10- month period in relation to this patient.

In relation to the "cervical/rectal" incident Dr Cooksley gives the following evidence before the court:

"Dr Tsigounis attended a female patient who required a high vaginal swab. Dr Tsigounis took the patient to the paediatric room. This was an inappropriate location. Whilst attempting to take the

[16] The Medical Practitioners Registration Act Queensland 2001.
[17] District Court of Townsville Evidence. Dr David Cooksley's cross-examination. Transcript. Dr Helen Tsigounis v Medical Board of Queensland [D1136 of 2004.] [Page 722-726]

vaginal swab, Dr Tsigounis inserted the swab into the woman's rectum before using the same swab for the high vaginal specimen. The patient asked Dr Tsigounis if she was actually a doctor.

When I cross -examined Dr Cooksley he said he heard about this from someone who he could not remember to name. No patient regarding this was ever identified.

I had begun separate court action for malicious defamation against Dr David Cooksley but the same District Court Judge, Judge Clive Wall intervened and blocked the action on the day of the relevant Court Hearing.

Dr Cooksley's evidence was false and damaging with intent to do harm and he clearly conspired to create a false accusation regarding the "bacterial meningitis patient" and the "cervical/rectal incident".

Despite these malicious false complaints against me by Dr David Cooksley, the District Court Judge relied heavily on Dr Cooksley's evidence in support of his findings as in his Judgement.

Dr Julia Ashley (MBQ witness) (Exhibit 22 of *the evidence of Helen Tsigounis (Appellant) v The Medical Board of Queensland (Respondent) No D1136 of 2004**).***

Dr Ashley made repeated false statements over a 10- month period despite having access to the true information.
She signed an Affidavit with these false statements.
She gave false and misleading evidence during cross-examination.
Dr Ashley gives the following evidence in relation to the "cervical/rectal" incident:

"A lady was taken to the paediatric room for a pelvic examination and according to the nurse Helen swabbed the rectum before using the same swab for the cervix"

She admits in court she had not seen this patient, could not identify her and that she had read any medical files in relation to his issue. She further gives evidence that she could not remember who had told her about this incident.[18]

Dr Mark Elcock 's complaint in relation to the "cervical/rectal" incident as before the District Court. [Exhibit 6 of the evidence of. *Helen Tsigounis (Appellant) v The Medical Board of Queensland (Respondent) No D1136 of 2004*

.
"PV (Vaginal) examination without chaperone. Inserted a Speculum into anus accidentally and then inserted in vagina. The patient told her it was in the wrong place"

When I cross- examined Dr Elcock he said he had not seen the patient, could not name the patient and could not remember who told him this.[19]

Dr Niell Small's evidence against me in relation to the "cervical/rectal incident" (Medical Board of Queensland Witnesses). Signed Affidavit. [Exhibit 7 of the Evidence of *Helen Tsigounis (Appellant) v The Medical Board of Queensland (Respondent) No D1136 of 20040**.***

"A senior nurse reported an incident in which a speculum was inserted in the anus of a patient"

Once again when cross-examined during the court hearing he could not identify a patient or remember who told him the information he reported.

It appears that false hearsay information when repeated over and over again by many people- in this case the Witnesses used by the MBQ against me, may become fact if allowed.

These witnesses criminally conspired to commit fraud with intent to destroy my career
.

[18] District Court of Townsville Evidence. Dr Julia Ashleys cross-examination. Transcript. Dr Helen Tsigounis v Medical Board of Queensland [D1136 of 2004.] (Page 112,113)
[19] . District Court of Townsville Evidence. Transcript. Dr Mark Elcock's cross-examination.Dr Helen Tsigounis v Medical Board of Queensland [D1136 of 2004.] (Page 383-397)

According to the procedure of the Court Case these witnesses should not have been allowed to appear and give hearsay evidence against me without any factual basis, pointing once again to an

unfair trial. The Judge failed to rule these witnesses inadmissible constituting a denial of natural justice and in violation of Artcle 14 (1) of the named covenant.

Further, the District Court Judge allowed irrelevant material and complaints against me before the court that were not a subject of the appeal. This made 90% of the witness complaints against me that were relied upon by the MBQ to support their argument that I had not satisfactorily completed internship requirements.

On the first day of the District Court Hearing, the MBQ solicitors gave false and defamatory information to local journalists.
On the 24/08/2004 in an article on the front page of the *Townsville Bulletin* in a newspaper article titled *"What's Up Doc?"* the following was reported:
That I was a Greek trained doctor (false)
That I had sent a patient home with acute bacterial meningitis (false).
That I performed an examination in the tearoom where I placed a speculum into a patient's anus instead of vagina (false).

The media continued to report such falsities and defamatory comments about me during the trial despite the fact that I had forwarded to them the true information. This was a blatant attack on my honour and reputation in violation of Article 17. At a later date no solicitor, barrister or QC in Australia would help me take action against the Townsville Hospital or the Townsville Bulletin.
It appears my case was blacklisted by the State.

3.THE COURT HEARINGS.

(i) District Court Hearing

An unfair trial is demonstrated by the conduct of the District Court Judge on day 1 of the court hearing where His Honour denies me legal representation and orders me to conduct the court case myself. He then refuses my pleas for adjournment so I can find a solicitor to conduct my case.

On day one of the District Court Hearing I appeared with a Melbourne solicitor Prospero Franzesi, whom I had employed after my previous legal team, the Mark Dreyfus legal team, resigned one week before the set hearing.
The District Court Judge had before him in the evidence, the *Mark Dreyfus Complaint to the Victorian Bar Ethics Committee.*

The Following is a section of the Supreme Court Transcript on day 1 of the Court Hearing:[20]

"His Honour: *Could I see both in my chambers for a moment, Mr Tait, Mr Franzesi?*
Court Adjourned for 20 minutes

His Honour: *Yes, I should just place on record that I saw Mr Franzesi and Mr Tait in my chambers. Mr Franzesi told me that he was a legal practitioner in Victoria, but he wasn't admitted in Queensland.Now Mr Franzesi, are you aware of the provisions of the Legal Profession Act 2004?*

Mr Franzesi*: In Queensland Act, Im not aware of the provisions.*

His Honour*: What provisions are you aware of ?*

Mr Franzes: *Well, Im aware to some provisions in the District Court Act that relate to leave for interstate practitioners.*

His Honour*: Well, what provisions are they? Well the legal provision Act -Well just tell me do you have professional indemnity insurance?*
Mr Franzesi*: Yes I do*

[20] District Court of Townsville Evidence. Dr Helen Tsigounis v Medical Board of Queensland [D1136 of 2004.] Evidence, Transcript, (Page 8-11)

***His Honour**: And does that professional indemnity insurance cover legal practice in Queensland or only Victoria?*

***Mr Franzesi**: Well it covers practice inciiental to my practice in Victoria.*

***His Honour** :So it doesnt cover legal practice in Queensland ?*
***Mr Franzesi**: I couldnt say off the top of my head.*

***His Honour**: And you have taken no well, you havn't taken any steps at all such may be required under the legal profession act to secure an entitlement to practice in Queensland?*

***Mr Franzesi**: No, Your Honour. I am instructed by you, that the Appellant can appear in person... .....*
***His Honour:** No, Well I don't think special leave should be granted. What do you say Mr Franzesi?*

***Mr Franzesi:** Oh, Your Honour, I really can't say much to that except accept it. What wed require is a short break so that the Appellant can prepare herself to represent herself.*

***His Honour**: Yes alright. But Ms Tsigounis, do you realise you'll have to conduct the case yourself?*

***Appellant:** Well do I have a choice?*

***His Honour**: Well, I don't think you do. I don't think you do have a choice." 'I'll give you a short break to organise yourself'"*

I was ordered to conduct the case myself with no legal training or background and with no preparation. The MBQ was represented by top Counsel, David Tait QC and solicitor Andrew Forbes as well as two other legal aids.
It is clear at this stage that this Judge acted in a way to promote the interests of the MBQ.

One hour and a half leave was given for me to prepare myself.
I began the cross examination of the first witness without any explanation on how to proceed.
I had severe problems conducting the case.
The Court kept swapping the witnesses around so the ones I had prepared for that day did not present but other witnesses were called that had been scheduled for a later date.

At one point I said to the Judge *"We actually can't have Ms Struthers here, because the next one on the court list is Dr Niell Small and I've just prepared to do him".*[21]

His Honour Replied*: "You have to be prepared for changes like this, especially when the proposed witness timetable has gone right out the window."*

I then said: *"Can I object to this happening?" Because I only found out today that I have to actually take the place of my solicitor.*

His Honour Replied: *"No I think we'll go as far as we can with the witness".*

Another witness appeared that was not scheduled for that day[22]

I said to the Judge *" I can't see her name down at all for the 23 August. This is actually my right: This is the court list that I have.*

His Honour Replied*: "Well look it doesn't matter I mean she is there in the witness box"*

I accepted his Honours orders and cross-examined the witness.

After Nurse Struthers, Dr Gelhaar was again called out of sequence.

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[21].District Court of Townsville Dr Helen Tsigounis v Medical Board of Queensland [D1136 of 2004.] Evidence. Transcript. Page 60 Line 5.
[22] District Court of Townsville Evidence. Dr Helen Tsigounis v Medical Board of Queensland [D1136 of 2004]. Evidence,Transcript. (Page 62)

I said to the Judge[23]: "*I have been lumped by doing the job of my solicitor which, you know, is not appropriate because I didn't come here to act as a solicitor and I have not prepared for it...*

"I can't do this they are totally out of order"

I was ordered to continue on by the Judge so I did.
I had asked for an adjournment so I can find a Queensland solicitor to appear for me many times during the first three days of the court hearing but this human right was denied to me by the Judge.

The following is a section of the District Court hearing on day 1 [24]

***"Appellant**: "My solicitor 's gone off to try and find counsel. If it (the court case) could be adjourned, it would be, you know-at least until tomorrow morning…..".*

***His Honour**: No, I think we'll go as far as we can with the witness…"*

.
On the same day I begged His Honour to adjourn the case again, I said to the Judge[25] "*I can't – I can't do this because-you know- I'm waiting for my solicitor to get counsel".*

His Honour refuses adjournment and states: *"I hate to think what's going to be counsel's first request tomorrow morning, if you do get counsel"*

On day 3 of the court hearing I said to the Judge *"Judge Wall, I havn't done this before and it was a bit of a surprise for me to present my own case here in Townsville Unexpected".*

His Honour Replied[26] *" Id face the same difficulty if I were operating*"

I continued on with no sleep at nights while preparing for the next days hearing until the judge decided to adjourn the case at the end of day 3 as the Judge felt that the 5 days set out for the hearing was not enough time. The Judge States as reason for the adjournment *"there was plenty of correspondence between the parties as to whether 5 days would be adequate and we were assured by Mr Dreyfus and his solicitors that it would be"*[27]

By ordering me to conduct the District Court Case myself on the first part of the District Court Hearing without allowing me to adjourn in order to find a solicitor to conduct the case, the District Court Judge was in breach of the "impartiality" and "equality of arms" components to a fair trial.

Impartiality of the court implies that Judges must not act in ways that promote the interests of one of the parties[28]

One aspect of the requirement of impartiality is through the reasonableness test. The Court must appear to a reasonable observer to be impartial[29]

In fact on day 3 of the District Court Hearing some impartial observer made a complaint to the Chief of Justice of Queensland in relation to the unreasonable conduct of the Judge during the court hearing.

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[23] District Court of Townsville Evidence. Transcript. (Page 69, Line 15).
Dr Helen Tsigounis v Medical Board of Queensland [D1136 of 2004]
[24] District Court of Townsville, Helen Tsigounis v Medical Board of Queensland [D1136 of 2004.] Transcript. (Page 61 Line 46)
[25] District Court of Townsville Evidence. Helen Tsigounis v Medical Board of Queensland [D1136 of 2004.] Transcript. (Page 68, Line 58)
[26] District Court of Townsville Evidence. Helen Tsigounis v Medical Board of Queensland [D1136 of 2004.] Transcript. (Page 200)
[27] District Court of Townsville Evidence. Helen Tsigounis v Medical Board of Queensland [D1136 of 2004.] Transcript.(Page 189, Line 40)
[28] Karttunen v Finland, Case No 387/1989, Views of October 1992, Para 7.2
[29] Human Rights Committee, General Comment No. 32, Article 14: Right to Equality Before Courts and Tribunals and To a Fair Trial, U.N. Doc. CCPR/C/GC/32 (2007), para. 19. See also, Gonzalez del Rio v. Peru, Communication No. 263/1987, U.N. Doc. CCPR/C/46/D/263/1987 (1992), para. 5.2. ("The Committee recalls that the right to be tried by an independent and impartial tribunal is absolute right that may suffer no exception.").
General Comment No. 32, para. 21.

This was discussed in open court and I was asked if I knew this person by the Judge where I replied I did not.[30]

It is clear from this Judge's conduct at this point that he failed to meet the criteria of "equality of arms" and "Impartiality"

In fact, the following submission was made to the Supreme Court-Court of Appeal in relation to the procedural errors made by the District Court Judge when conducting my case. **[Attachment 7]**

During the second part of the District Court Hearing 31/1/2005-12/2/2005 (11 days)
I had employed counsel Phillip Leach to conduct the case.
On the first day of this hearing I realised he had failed to not only prepare but also had lied about the tasks he was instructed to do and was paid for.
One such instance is when I instructed him to subpoena Dr Karen Yuen and Dr Robyn Scholl from the MBQ so I can cross examine them based on their documents before the courts with concocted and false complaints against me.
Phillip Leach said he had sent the subpoenas.
On page 195 of The Red Back Web Book[31] is copied a tax invoice which I had paid where Mr Leach for drafting and engrossing these subpoenas.

On the first day of the second part of the District Court Hearing it was evident from court documents that Philip Leach had lied about the subpoenas. When confronted he chose to stand down from the case so I once again conducted the case myself.

A complaint against Phillip Leach with this information was made to the Law Institute of Queensland. It was dismissed.

Once again during the second part of the Court Hearing the court would change around the witnesses so the ones I had prepared the evening before would be changed and other witnesses I had not prepared for would be called.

On Day 6 of the Hearing[32] (Day 3 of the second part of the hearing) I said to His Honour:

*"**Appellant:** Your Honour can I put something to you, it's not fair the way these witnesses are fiddled around with in the mornings*

***His Honour**: Are What?*

***Appellant:** They're just fiddled around. I was told this morning that you know, most likely it would be Nurse Webber then Dr Keary and then Dr Judson and instead Dr Lucas pops up...I just find it inappropriate that I don't know who the witness is going to be until I sit here in the chair'"*

Nothing changed and the unfair trial continued on as before.

By the Friday, the fifth day of the second part of the District Court Hearing I had only slept 12 hours in 4 nights and felt exhausted and dazed, like I was suffering a hangover. My hands were trembling and I had difficulty coordinating even to hold a pen. I tendered an article to the Judge which was included as an exhibit before the court thus making it into the evidence-this article was on sleep deprivation and its effects on cognitive functioning.

The District Court Judge failed to meet the "equality of arms" criteria which requires that there be a fair balance between the opportunities afforded to the parties involved in litigation[33]

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[30]District Court of Townsville Evidence. Transcript. (Pages 250, 251).
Dr Helen Tsigounis v Medical Board of Queensland [D1136 of 2004]
[31] *The Red Back Web Book.* Helen Tsigounis. ISBN: 978-960-93-2463-2. Page 195.Published in Athens Greece.Link: http://docdro.id/dOiUm27
[32] District Court of Townsville Evidence. Helen Tsigounis v Medical Board of Queensland [D1136 of 2004.] Transcript. Page 429-494.
[33] Dudko v. Australia, Human Rights Committee, Communication No. 1347/ 2005, U.N.Doc. CCPR/C/90/D/1347/2005 (July 23, 2007), para. 7.4

The District Court Judge found against me in his judgements, including that I had not satisfactorily completed internship requirements. His Honour made findings such as unsatisfactory professional conduct, incompetence, negligence, lack of judgment and that my treatment of patients, placed them at serious risk.[34]

(ii) Supreme Court-Court of Appeal

I employed Counsel, Tony Morris QC and legal team to conduct the Appeal against the District Court Judges' decision to the Supreme Court of Queensland -Court Of Appeal.
Tony Morris argued and proved from the evidence numerous errors of law were made by the District Court Judge, Judge Clive Wall namely in relation to the "Standard of proof issue", the Judge's bias and the Unfair trial issue. (**Attached Document 8)**

It was accepted by the District Court Judge that the Briginshaw standard of proof needed to be applied because of the serious consequences to me if the MBQs decision was upheld. The District Court Judge states in his Judgement [Para 28 of Tsigounis v MBQ [2005] QDC]:

CJ Wall ruled:

**Serious allegations of professional incompetence leveled against the Appellant*

**If resolved adversely to the Appellant they are to impact severely on her standing reputation, career and livelihood*

**No greater penalty could be suffered by a medical practitioner than de-registration which is the Medical Board's position and the subject of the appeal.*

**If the findings made by the Board stand, the appellant will find it extremely difficult if not impossible to obtain future employment as an intern and her registration as a medical practitioner in Greece would be at risk."*

The District Court Judge then proceeded to make findings against me without applying the Briginshaw Standard (thus an error of law was made that needed to be corrected by a higher court)

In fact Tony Morris during the Supreme Court Hearing addresses the issue of bias when he states in open court[35]: *"It really does come across as a judge (DCJ Wall) who was eager to say anything against this Appellant (Dr Helen Tsigounis) that can be said, whether or not there was evidence for it or not".*

In fact it was demonstrable that the District Court Judge failed to apply any proper standard of proof to the evidence and failed the "reasonableness test". The District Courts Judgement was not made according to reason and impartiality and according to the laws governing the fact – finding exercise.

Further, the issue of bias was an inherent part of the Leave to Appeal application before the Supreme Court Judges.

The Supreme Court Judges dealt with the "Standard of Proof Issue" by stating that the standard of proof required in my case was not the Briginshaw standard, therefore Judge Wall made no error of law when he did not apply it to my case [Tsigounis v MBQ 2006 QCA 295 at paragraphs 75-79]

In concluding that the Briginshaw Standard did not apply, Keane J stated:

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[34] District Court of Townsville Judgement.
Tsigounis v Medical Board of Queensland [2005] QDC05-103- 11/5/2005
Link: https://archive.sclqld.org.au/qjudgment/2005/QDC05-103.pdf

[35] Supreme Court of Queensland Hearing. [CA No 4611 of 2005.] Transcript. Page 39

"the case did not involve a serious consequence, such as striking off a registered medical practitioner whose entitlement to practice has previously been established. Rather the case was concerned with whether the applicant had completed requirements necessary to be granted unconditionally" [Para 76-77 of Dr Helen Tsigounis v Medical Board of Queensland [2006] QCA 295 (15/8/2006)].

Long-standing principles that have consistently been applied to cases like mine were not applied in this case constituting a Violation of at least Articles 14.1 and 26 of the present covenant.

In relation to the error of law that the District Court Hearing constituted an unfair trial, the Supreme Court Judges concluded against my arguement (Par {56]- {68} Tsigounis v MBQ [2006] QCA 295 (15 August 2006)]

Further, The Supreme Court judges participated in a sophisticated scheme to conceal issues of my case, divert the focus on the matters, falsify the facts of the case and collude to pervert the course of justice-a criminal offence under Australian Law.

The Judges appeared to use the "Recency to Practice Issue" to divert the focus of the Appeal. This was not a relevant issue and not the subject of the Appeal.

Diversion from the issues and the subjects of the Appeal by the Supreme Court Judges as is detailed in The Red Back Web Book in chapter 9, pages 324 and 325. **(Attached document 9).**

In relation to the procedural errors made by the MBQ and the Malice and Fraud issues, I had instructed Tony Morris in writing to include a submission before the Supreme Court to include these issues. I also instructed him to point out that the District Court Judge ignored these issues that were in clear form in the evidence before the hearing and that he failed to enforce the laws related to these issues.

Tony Morris initially agreed to do this but as the two -day court hearing approached he refused.

On the first day of the Supreme Court Hearing, 1 August 2006, I felt that Tony Morris was not arguing my case in full force. After the first 10 minutes the case was adjourned and Mr Morris

wanted to see me. He told me that my case was *"politically flagged*" and "*there was no point to go on as the Judges minds had already been set against us".*
I instructed him to go on and fight the case legally.

As the case moved on it was apparent to me that Tony Morris and the Supreme Court Judges were falsifying the evidence before them in attempts to pervert the course of justice.

The Following is a section of Day 1 of the Supreme Court Hearing[36]

Keane JA: *There seems to be the suggestion that Mr Dreyfus and perhaps his Junior who had been acting in the matter had had their services dispensed with a week out from the hearing.*

Mr Tait: *It was apparent as Justice Keane stated a week or so before the hearing that Mr Dreyfus had been dismissed and Mr Franzese then turned up at the cour*t."

It is clear from the complaint to the Victorian Bar Ethics Committee, as it was before the Judges in the evidence before the court, that the complaint had to do also with Mr Dreyfus resigning from the case 1 week before the hearing after a 10 -month employment.

[36] Supreme Court of Queensland Hearing. [CA No 4611 of 2005] Transcript Page

The Supreme Court Judges themselves acknowledge the Dreyfus complaint was before them in [Par 61] of their judgement whereby it was stated[37],*"The appeal record contains material introduced by the applicant before this Court containing details of her complaint to the Victorian Bar Ethics Committee about the conduct of Mr. M Dreyfus, QC"*

It was evident that the Supreme Court Judges' attempted to cover up the issues in the Mark Dreyfus complaint in an open court.

During the second and final day of this Hearing (2/August 2006) I decided to give Tony Morris clear written instructions to argue certain issues central to my case.

The Following is a section of the Transcript[38]

"Mr Morris: *May it please the court; we have a difficulty, after I arrived here a little after 10'clock I was given some written instructions which are instructions which none of the Appellant's legal representatives are prepared to accept. What I have indicated to my client however is that with your Honours permission I would articulate what those written instructions are but I'm unable to do so as my own submissions. Would Your Honours Permit?*

Williams JA: *Yes, we will permit you to do that, Mr Morris*

Mr Morris: *May it please the court; we have a difficulty, after I arrived here a little after 10'clock I was given some written instructions which are instructions which none of the Appellant's legal representatives are prepared to accept. What I have indicated to my client however is that with your Honours permission I would articulate what those written instructions are but I'm unable to do so as my own submissions. Would Your Honours Permit?*

Williams JA: *Yes, we will permit you to do that, Mr Morris*

Mr Morris: *I am instructed to say that an error of law which I'm instructed to identify is the allowing of hearsay evidence, before the court and reliance upon it in findings made by the previous judge (District Court Judge) to such an extent that it constituted an error of law.*
May I say in that regard that it is perfectly clear that evidence wasted which was technically hearsay in the sense that various doctors, for example Dr Cooksle'y gave evidence of what they heard and expressed opinions regarding the Appellants fitness based on what they had heard applying the rules of evidence of course, such evidence is admissable as long as the factual foundation was established.

Mr Morris*: The Next matter which I'm instructed to say, This I have no difficulty with because it was part of my principal submission that His Honour failed to apply the appropriate standard of proof in all of his findings. I am also instructed to say that the procedural unfairness extended and included unfairness by the Medical Board even procedural misconduct and fraud.*

Williams JA: *In what way Mr Morris?*

Mr Morris: *I have no idea Your Honours.*

Keane JA*: And for what motive?*

Mr Morris: *Your Honours I cannot identify from the Court any motive that emerges from the material.*
Finally, I m instructed to make the submission that in assessing the evidence of the witnesses His Honour (District Court Judge) failed to take into account what is said to be demonstrated as malice and fraud by witnesses including Dr Cooksle'y, Dr Small, Dr Ashley and the Medical Board itself (Dr Karen Yuen's evidence).
Again that is not my submission.

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[37] Supreme Court of Queensland Judgement. *Helen Tsigounis v Medical Board of Queensland [2006] QCA 295 (15 August 2006)]. Paragraph 61*. Link: https://www.queenslandjudgments.com.au/download/case?rep=58901

[38] Supreme Court of Queensland Judgement. *Helen Tsigounis v Medical Board of Queensland [2006] QCA 295 (15 August 2006)* Link: https://www.queenslandjudgments.com.au/download/case?rep=58901

Mr Tait: *This is just one more demonstration of the unlikelihood of completing internship requirements in 12 months. This lack of Insight. When you submit those sorts of things, in the absence of any particulars or any evidence, its just amazing."*

It is clear Dr Cooksley's hearsay evidence was not based on a factual basis as was also Mark Elcock, Dr Julia Ashley, Dr Karen Yuen and Dr Niell Small's evidence against me.

The Medical Board malice and fraud issues available from the evidence before the Supreme Court Judges were ignored.

The Supreme Court erred in ignoring this evidence and made findings that were contradicted by the court evidence. [69] C and D of Judgment: Tsigounis v MBQ [2006] 295 (15 August 2006)

The Supreme Court judges also erred in not correcting the errors of law made by the District Court Judge, Judge Clive Wall (the Primary Judge) of which If they had done so would have led to a favourable outcome for me and a remedy to previous human rights violations.

As the Supreme Court failed to act on the violations of the first procedure, the violations continued.

The Supreme Court refused me leave to appeal with costs against me.

(iii) High Court of Australia

In the High Court Application for leave to appeal, as I was disadvantaged and beleaguered and could not find legal representation. I represented myself and submitted a document detailing all the errors in law made by the lower court judges. (District Court Judge and Supreme Court Judges)

I took advantage of the fact that in 2005 laws came into effect allowing unrepresented applicants to file written submissions to the High Court of Australia to seek leave or special leave to Appeal.

A 10-page document with 150 pages of attachments of evidence was filed with the High Court of Australia alleging judicial bias, judicial fraud, judicial perversion to the course of justice and errors of law by the lower courts. **[Attached Document 10]**

In particular were the following errors of law that were presented to the High Court of Australia with the supporting documents:

1.Failure by the primary Judge to apply the Briginshaw Standard of Proof to the evidence.

2. Failure of the primary judge to apply even the civil standard of proof to the evidence.

3.The primary judge was prejudicial towards the Applicant and his findings were tainted with bias.

4.There was a denial of natural justice and procedural fairness resulting in an unfair trial.

5.The primary judge allowed inadmissible evidence before the court.

6.The primary judge addressed the wrong issues.

7.The primary judge acted beyond his powers when making a psychiatric diagnosis of the Applicant based on his observation of her while she conducted the case (personality defect).

8.The primary judge erred in not determining breaches of statutory duty and procedural errors made by the MBQ.

9.Failure of the primary judge to act on the alleged Medical Board Malice and Fraud issues that

were revealed by the court evidence (The Root Cause)

10. Failure of the Supreme Court Judges to correct the above errors of law.

11. A further error of law occurred where the Supreme Court Judges concluded that the Briginshaw standard was not applicable to this case

The High Court's decision was to refuse me leave to Appeal without giving legal arguments in explanation as to the errors of law put forth in my document.[39] **[Attached Document 11]**

It was within the powers of the high court to quash a decision on the grounds the trials had been unfair or to order a retrial or judicial review

The High Courts refusal to grant me leave to appeal constituted a grave miscarriage of justice as previous wrongful decisions were not removed or corrected. This is in violation of Article 14.1 and in violation of Articles 2.3 (a) and (b).

The criteria used by the High Court to determine whether to grant Leave to Appeal are whether there are questions of law (errors of law) that need to be corrected, if the case is in the publics' interest or if there are differing opinions between the courts as to the laws that needed to be applied.

It is evident for some corrupt reason or external influence the judges were prevented from doing their job according to the laws that govern them and to the administration of justice

It is clear from the minutes of the High Court Hearing the High Court Judges dismissed my application without an evaluation of the material before them.

One can argue this restrictive approach by the High Court does not provide one with a remedy against injustice nor of previous biased and unfair court proceedings as required by the States obligations under the present covenant thus a violation to Article 14.1 and Article 26.

4.THE FEDERAL SENATE INQUIRIES [Please refer to Attached Documents 1 and 2]

It is clear that the senators of the Federal Inquiries failed to exercise their powers according to the Australian Constitution and according to Common Law so as to act on the corruption and criminality revealed from my submissions, thus failed to enforce State Laws, a violation under Article 26 of the covenant.
By not doing so, the senators covered up the criminality and corruption of my case perverting the course of justice.

Further the Senate Inquiries failed to correct the violations of my human rights under the covenant.

It is well accepted that whenever a persons rights and freedoms are violated, including with respect to his or her rights to a fair trial and due process, Article 2.3 of the ICCPR obliges States to ensure that such a person is provided with an effective remedy[40]
Thus the Federal Senate Inquiries were in violation of Articles 2.3 (a) and (b).
Because of the above, the is also in violation of Article 2.1.

[39] High Court Transcript. Tsigounis v Medical Board of Queensland [2007] HCATrans 234 (24 May 2007) http://www7.austlii.edu.au/cgi-bin/sign.cgi/au/cases/cth/HCATrans/2007/234
[40] General Comment 32, Para. 58. See, for example, Human Rights Committee, Terrón v. Spain, Communication No. 1073/2002, UN Doc CCPR/C/82/D/1073/2002 (2994), Para. 6.6. See also article 8 of the Universal Declaration of Human Rights.

5.THE PSYCHIATRIC ISSUE-POLITICAL PSYCHIATRY

There has been ongoing defamation by the Australian Government that I am psychiatrically ill.
If they believe so and are using this to justify the ongoing crimes against me and the gross violations to my human rights, then I appeal to the Committee that my rights be upheld under the Treaty *"The Convention on the Rights of Persons with Disabilities"* and via the *"Optional Protocol to the Convention*
on the Rights of Persons with Disabilities" which promotes the full enjoyment of persons with disabilities of their human rights and freedoms under this covenant".

What is true about the "*psychiatric issue"* is the use of *Political Psychiatry, a well-* established phenomenon occurring in Australia.

In my case, I had oppressive psychiatric conditions placed on my registration as a doctor by the MBQ after a diagnosis of *"paranoid personality"* was made by a MBQ appointed psychiatrist after she saw me once. This opinion was discredited by numerous other independent psychiatrists who assessed me over longer periods of time, the reports of which made it in evidence before the court hearings.
On this issue, during the District Court Hearing, the Medical Board of Queensland said[41]

" But what I want to make plain to Your Honour and Ms Tsigounis is we are not saying there is a psychiatric illness, I'm not submitting that Ms Tsigounis has any psychiatric condition or illness"

Why then were oppressive psychiatric conditions placed on my registration as a doctor by the Medical Board of Queensland?

The District Court judge had to decide whether psychiatric conditions should be taken off from any further medical registration based on the psychiatric reports before him.

This was an important issue as psychiatric evidence was allowed before the court, psychiatric reports were discussed as a subject of the appeal and submissions were made in relation to this issue.
But the District Court Judge decides not to decide on this issue stating as reason *"the psychiatric issue was not a subject of the Appeal"* (Judgement 12 July 2005)

His Honour states this despite that in his Judgement of 12 July 2005 he publishes that it was his opinion based on his observation of me that I had a *"personality defect" and that I had a "paranoid personality".* The District Court Judge acts beyond his powers as a judge and beyond his jurisdiction by placing himself in the role of psychiatrist making his own diagnosis of me-thus revealing misconduct pointing to an unfair trial.

Further His Honour publishes this offensive and defamatory opinion of me in his Judgement despite himself acknowledging that the psychiatric issue was not a subject of the appeal. This was clearly an attack to my honour and reputation in violation of Article 17.

As the District Court Judges' alleged intent was to damage me as much as possible his refusal to decide on this matter was of no surprise as the evidence before the court hearing was in my favour-that I did not suffer from a psychiatric illness**. [Attachment 12]**

Instead His Honour chooses to damage me without deciding on the psychiatric issue by publishing his opinion of me based on his observation of me during the court hearings!

Also by saying "the psychiatric issue was not a subject of the appeal" the Judge falsifies the document that was the subject of the Appeal -namely the *"Notice Of Appeal"* which was the ground for the Appeal process filed on my behalf by my then solicitor Mark Dreyfus QC. (Exhibit 1-Evidence before the Court District Court Hearing Exhibit 1- *Helen Tsigounis (Appellant) v The Medical Board of Queensland (Respondent) No D1136 of 2004)***.**

[41] District Court of Townsville Evidence. Helen Tsigounis v Medical Board of Queensland [D1136 of 2004.] Transcript. Page 1266

The use of political psychiatry in my case is also evident in 1998 when I worked as a doctor at the Frankston Hospital in Melbourne, Victoria. This information was also in the evidence before the court hearing in relation to proving the "political psychiatry" issue.
The following was evidence before the Court (Exhibit 54 of evidence of *Helen Tsigounis (Appellant) v The Medical Board of Queensland (Respondent) No D1136 of 2004*)[42]

Indeed political psychiatry as in my case is used as a means of defamation, of destroying my ability to work and earn a living.
It appears Judge Clive Wall perpetrated the abuse on me by participating himself in political psychiatry against me thus pointing to his bias and unlawful intent.

(7) REMEDIES

Although it is generally accepted for the appellate courts of State Parties and not for the committee to evaluate the facts of evidence in a case, there are clear exceptions if a denial of justice has occurred or if the court violated its obligation of Impartiality**.**[43]

If the Committee concludes that the facts before it discloses a violation to the named covenant I would like as remedy and according to **Articles: 2.3 (a), 2.3(b)** my human rights to the law and justice implemented such that I receive adequate compensation for the violations suffered.
My career has been irreversibly destroyed and my health irreversibly damaged.

If no remedy can be implemented I would like the UN-Committee to intervene and allow my case to be resolved at the International (Criminal) Court of justice of Justice as the events of this case undermine the principles of democracy of the State Party.

I am happy to make my case public with disclosure of my identity.

(8) LIST OF ATTACHED DOCUMENTS.

1. Submission to Federal Senate Inquiry Into the Complaints Mechanism Administered under the Health Practitioners Regulation National Law dated 18/01/2017.

2. Submission to Federal Senate Inquiry Into Medical Complaints Regime dated 16/02/2016

3. Chief of Justice of Queensland document dated 25/9/2013.

4. Complaint against Mark Dreyfus QC to the Victorian Bar Ethics Committee dated1/12/2004: [File No BAR/04/086]

5.Documents forwarded in support of my application to the Medical Board of Queensland dated 11/May/2003.

6.Notice of Cancellation of my registration as a doctor dated 26/3/2004

7 Submission before the Court as to the Procedural errors made by the District Court Judge when conducting my case.

8.Supreme Court Submission by Tony Morris QC. 13/1/2005

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[42] Exhibit 54 of evidence of *Helen Tsigounis (Appellant) v The Medical Board of Queensland (Respondent) No D1136 of 2004*). Link: http://docdro.id/xeeJ8rJ
[43] Human Rights Committee Decision. CCPR/53/D/536/1993. [6.2]

9. Page 324 and 325 of The Red Back Web Book- Diversion from the issues and subjects of the Appeal by the Supreme Court Judges.

10.High Court Document by Dr Helen Tsigounis dated 2/11/2006

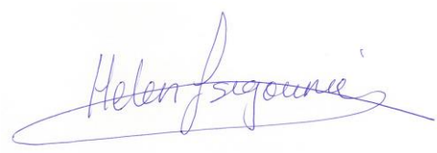
11. Decision by High Court of Australia dated 25/5/2007

12. Psychiatric evidence before the court-Refer to Attachment 5 and Footnote Link 42.

Any Further Documents that may be required by the Committee can be forwarded upon request including material referred to in the footnotes.

This Communication has been sent by email and registered post.

Yours Sincerely



Dr Helen Tsigounis

Attachment 1

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18/1/2017

SUBMISSION INTO THE COMPLAINTS MECHANISM ADMINISTERED UNDER THE HEALTH PRACTITIONERS REGULATION NATIONAL LAW.2009

Dear Senators of this committee, I would like to submit a supplementary submission to complement my previous submission into the previous Senate Inquiry "Senate Inquiry into Medical Complaints Regime".
My previous submission has been accepted by the Senate as submission 83.

I have approached many lawyers in Melbourne to help me with this submission but I have once again been denied legal help –one of them, Aldo Russo verbally telling me during our meeting, that my case was *"against the establishment"*.
Denial of legal assistance has been a common thread in my case and a violation to my human rights. (The Red Back Web) which will also be ***reference 1*** to this submission.
It appears legal perversion and obstruction to the course of justice in my case was present from day one, with the relevant misconduct of lawyers employed being ignored by the Relevant Law Institutes and Barr Associations. ***reference 1***

Despite my case (2003-2008) pre dating AHPRA and The Health Practitioners Regulation National Law, it is relevant to this Inquiry for many reasons.
For one, it is not a case about what law was/is in place but rather that the decision makers Investigating and deciding on the complaints process are failing, not only to apply the relevant laws but are consistently in breach of other federal and state laws.
In fact they target innocent doctors and act maliciously and criminally against them.
This is a consistent issue before and after AHPRA and before and after the National Law.

In fact when the decision makers of the complaints process dealt with my case, namely members of The Medical Board of Queensland, they were in breach of numerous sections of the relevant legislation at the time (The Medical Practitioners Registration Act, QLD) but more importantly they were in breach of Federal and State Criminal Acts, Bullying laws and Harassment Laws.
In the most extreme case there has been fraud, fabrication of evidence, concoction of complaints and perversion to the course of justice by the decision makers of the complaints process.
An example of this is sited in, *Dr Karen Yuen Document-* ***reference 2***

Based on numerous doctors cases before and after AHPRA it is clear that these bodies involved in the complaints process believe they are above the laws and can target doctors maliciously with intent to cause harm.

When such breaches to the law have occurred by the Decision Makers, the victim doctors are forced to defend themselves and their innocence and livelihood by appealing the decisions through court proceedings.
This depletes the doctor of his or her finances and faces, as is clear from many cases, judicial processes that are set up for doctors to fail.
The Strain faced by the doctors involved can lead to ill health.

In my case the judicial process was flawed with actions by Judges that can be defined as Corrupt and Criminal under the legislation. This is clear in the ***"Chief of Justice Document"-reference 3.***

I request that this Senate Inquiry resolve the issues in this, and other similar cases, and Investigate and/or instigate a Royal Commission.
Only a Royal Commission into these issues of present and past cases can effectively change the culture that exists and deal with what we doctors call *"the medical mafia"* or *"boys-club"* being only some of the names used for the same entity.

There is no legislation preventing this Senate Inquiry investigating and acting on the issues above.

In fact, based on previous Senate Inquiries it is clear that this Inquiry has the power to investigate such cases as mine and/or initiate a Royal Commission, like the recent Royal Commission into Institutional Responses to Child Sexual Abuse (paedophilia) which was established in 2013.
Australian Case Law supports the fact that this Senate Inquiry has powers to investigate cases and instigate Royal Commissions.

The powers of Senate Committees are set out in *The Australian Constitution Act (1900)* (Ch 5, Standing and Select Committees.
It is clear that this Senate Committee has the powers to investigate cases, summon witnesses and present documents to parliament including advising for a Royal Commission to take place.

Political perversion or obstruction to the course of justice is punishable under the Commonwealth and State Criminal Codes and Acts.
Government crimes against the public are also punishable under these Acts.

I would also like to remind the committee that criminal conduct has no statute of limitations.

IN RESPECT TO THE HEALTH PRACTITIONER REGULATION NATIONAL LAW ACT.2009 the following is said:

The National Practitioners Registration Health Law 2009 has provisions within the Act to make previously registered medical professionals registered under a corresponding prior Act relevant to this Act. (Section 139 and 140)
In my case I was registered under the Medical Practitioners Registration Act of Queensland and have not been registered under The Health Practitioners Regulation Act-2009.

In my case a notification as to my behavior was made under a corresponding Act and proceedings took place.
In particular, I was accused that I placed the public at risk due to an impairment- defined by the Medical Board's psychiatrists as "paranoid personality" which was disputed by numerous other independent psychiatrists. ***Reference 1***
I was also accused of placing the public at risk of harm because I practiced in a way that constitutes a significant departure from accepted professional standards, (this was also disputed by the evidence before the Medical Board of Queensland and from the evidence of the Legal Process***) (Reference 1)***

Therefore Subsection 2 of Section 139 states under this law that a notification may be made, and proceedings may be taken in relation to past cases like mine.
And further, Subsection 4 of Section 139 states necessary changes may take place in relation to a doctor's registration status also taking into account past cases like mine.

Section 139 gives powers to the Board to give notification to doctors registered under any corresponding Act prior to this Act, in relation to registration matters including investigation of previous issues and any necessary changes to a doctor's registration

The following subsequent sections, 144, 145 and 146 are also relevant to this submission.
Any "entity", including a Senate committee or Medical Board can make a voluntary notification to the National Agency (AHPRA) in relation to a former doctor registered by a previous Act to ask for an investigation in relation to prior issues including false allegations of professional misconduct and reassessment and removal of conditions imposed on a doctors registration, and to reinstate a doctor's registration.
Section 5 of this Act defines *"entity"* the following way, *"includes a person and an unincorporated body"* which includes a government senate committee and the notification can be made verbally including by telephone or in writing whereby the respondent must respond.

My case, despite pre-dating the National Law is very relevant to this submission and to the terms of reference.

IN RELATION TO THE TERMS OF REFERENCE OF THIS INQUIRY THE FOLLOWING IS SAID:

(a) The implementation of the current complaints system under the National Law, including the role of AHPRA (Australian Health Regulation Authority) and the National Boards

The National Law gives the National Boards and AHPRA the authority to investigate and resolve cases such as mine that pre-dated the existence of this National Law (as explained above).
This is of utmost importance for doctors who are or have been maliciously targeted by the decision makers of the complaints process to achieve a review of their cases under the National Law, be reinstated, and justice be served.

In fact The National Law gives powers to the Senate Inquiry as an "entity" to be able to re-open past cases and investigate and solve them (as explained above).
In my case the Boards conduct included witch-hunting, bullying, fabrication of complaints, concoction of evidence, fraud , perjury, perverting the course of justice and failing to apply the legislation that governs whereby I was barred from the profession .(See Previous Submission)
Refer to the unlawful conduct of Dr Karen Yuen in my case (Medical Board of Queensland). ***Reference 2***

It is clear and a common theme faced by many doctors, before and after AHPRA that the decision makers involved in the complaints process are consistently in breach of the laws that govern them including being in breach of Commonwealth and State Crimes Acts, Harassment Laws and Bullying laws. The National Law allows previous cases such as mine to be reviewed, investigated and addressed according to the laws whereby doctors can be reinstated and justice can be served.

There is and was a culture in medicine where the decision makers involved in the complaints process in the Regulatory bodies think they are above the laws and can engage in unlawful and malicious conduct. ***Reference1***
Only a Royal Commission into cases such as mine where there have been breaches to the laws will solve the situation and protect future doctors from being maliciously and criminally attacked by the decision makers of the complaints process which is in the scope of this inquiry (see above).

(b) Whether the existing regulatory framework, established by National Law, contains adequate provisions for addressing medical complaints.

There should be provisions and severe punishment for the decision makers of the Complaints Process, be it members of the Medical Boards or AHPRA for failing to apply the National Laws or previous relevant Laws and for being in breach of Criminal Laws, Bullying Laws and Harassment Laws.

There should be provisions added to this National Law referring to criminal legislation to address such issues as discussed above and to prosecute government officials in these Regulatory Bodies namely National Boards, National Agency and The National Register for unlawful conduct.

The following Acts are relevant to my case.
The Commonwealth Crimes Act (1914)(Part 3- Division3 and 4)
The Criminal Law Amendment, Theft, Fraud and Bribary Act 2000 (S135) {Commonwealth Law}
The Criminal code Act 1995 (CommonwealthLlaw) (S135)
The Criminal Codes Act (Queensland) (ch 35-Criminal Defamation) (1899), (Ch 16 Offences Related to the Administration of Justice)
The Crime and Misconduct Act 2001 (Qld)
The Crimes and Corruption Act (2001) are relevant.
State and Federal Bullying Laws

A provision for a link to the above laws should be added to the National Law to ensure that the decision makers of the complaints process are prosecuted under these laws for unlawful conduct.
Only then will the culture of the powers in the medical fraternity change, and understand they are not above the laws. And only then will malicious targeting of doctors end.

Under this National Law it is open for past cases like mine to be re-investigated by the Boards and the Senate Inquiry so as to offer justice and re-instatement of past victims, like myself, allowing us to re-establish careers to assist the community (see above).

(c) The roles of AHPRA, the National Boards and Professional Organisations, such as the various colleges, in addressing concerns with the complaints process

Retrospectively my case involved The Medical Board Of Queensland and it is clear from the documents referred in this submission and my previous submission, the relevant Board involved not only failed in addressing the complaints with an appropriate standard of proof, they abused their power by maliciously and criminally attacking me.
This abuse of power involved witch-hunting, bullying, fabrication of complaints, concoction of evidence, fraud , perjury, perverting the course of justice and failing to apply the legislation that governs them.
Reference 1 and 2.
These issues are consistent in cases of doctors before and after AHPRA.

The Issue has and is the Corruption of the Decision Makers of the Complaints Process and their Abuse of Power and their arrogance that they are above the laws.

(d) The adequacy of the relationships between these bodies for handling complaints

Obviously the relationship between these bodies is and has been deficient as is highlighted by doctors taking legal action against these bodies after doctors have been debarred for false complaints, trivial complaints and complaints accepted by these bodies that had not been evaluated with an appropriate standard of proof.
My case is an example of this retrospectively. ***Reference 1 and 2***

The rational interpretation of the matter may be that if a doctor has rubbed a person the wrong way then it is possible that those entrusted with investigation may concoct evidence, without the ability to produce evidence and the interacting regulatory bodies collude and allow such unlawful behavior to go unchecked. What can occur is akin to a Kangaroo court- and I was a victim of this, thus my determination to achieve justice.

(e) Whether amendments to the National Law in relations to the complaints handling process are required.

Apart from the recommendations cited in **"b"** of the terms of reference, there are other recommended amendments that should be considered.

There should be one body entrusted to handle complaints and another body entrusted in handling support of a health practitioner subjected to a complaint especially if it is a false, malicious or trivial complaint and especially if the targeted doctor is bullied and harassed.
No where does the legislation provide support mechanisms for the doctor investigated.

Also the need for a case manager rather than one sole investigator to avoid misconduct.

And most importantly the need to monitor **Abuse of Power** at every level.

(f) Other Improvements that could assist in a fairer, quicker and more effective medical complaints process

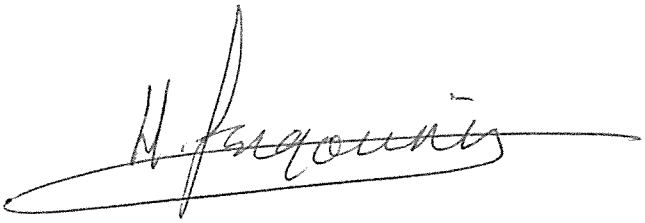
Other improvements that make a fairer complaints process is to punish or prosecute an investigator or complainee who has participated in malicious or fraudulent or trivial complaints early.
This would prevent drawn out legal proceedings which could have been resolved before hand by the appropriate regulatory body if abuse of power or malicious intent had been identified especially in relation to false and trivial complaints and thus avoid a legal process which in most cases is set up for the doctor to fail.

Such unlawful behavior by a complainee, be it the Boards or AHPRA making the complaints or a medical professional against one of his colleagues, puts pressure on the legal and judicial authorities to cover up government crime therefore more crime to cover up the previous crime as in my case.
In fact in my case there was severe judicial corruption aimed at covering up the Medical Board Corruption. ***Reference 3***

In Summary I would like to reinforce to this Senate Committee that it is open and within its powers to investigate and resolve cases like my own where there has been Malice, Abuse of Power and Criminality by authorities involved in the complaints process taking away the livelihood of innocent doctors and precipitating ill health.
This should be done with an intent to achieve justice for such doctors who were debarred because of false and trivial complaints.

Provisions to the National Law to deal with and punish unlawful conduct by members of regulatory bodies with links to Crimes Acts, Bullying Acts and Harassment laws should also occur.

I would appreciate that this submission is not made "confidential" as it is in the public's interest to know the truth.
By making it "confidential" and by not resolving it according to the laws of this country, my case, like many others alike, will remain like an unsolved murder in Australian History.



Dr Helen Tsigounis

REFERENCES

(1) The Red Back Web. Book by Dr Helen Tsigounis. (published in Europe)
http://docdro.id/dOiUm27

(2) Dr Karen Yuen Document
http://docdro.id/zE4VgfW

(3) The Chief of Justice Document
http://docdro.id/v1a87FS

Dr Helen Tsigounis
c/- Holy Trinity Church
21 L. Mavili Street,
Corfu
Greece
25 Sept 2013

Delivered by Hand by Dr R Broadbent

The Honourable Paul de Jersey, AC
Chief Justice
Supreme Court of Queensland
Brisbane

Dear Chief Justice,

Notification about alleged Judicial administrative misfeasance

I wish to bring this case, (Dr Helen Tsigounis v Medical Board of Queensland (MBQ) to your Honour's attention with the hope that justice is finally upheld. It reveals MBQ, legal and Judicial corruption (as defined by Australian Law), and departure from the rule of law.

Presently, I possess unconditional Full Registration in Greece (and therefore, by law, in the EU) and work when able, as a locum General Practitioner in Greece. I cannot return to practice as a doctor in Australia where I was born, raised and professionally trained because of the matter notified.

My case is a complex one for various reasons and I beg your Honour's indulgence and patience in understanding the convoluted ramifications and their overlap with administrative issues and to consider applying an inquisitorial rather than an adversarial approach to my matter.

The basis of this complaint was a redirection for judicial scrutiny under the Public Interest Disclosure Act 2010, in response to the Health Minister's bold announcements on policy reforms with matters concerning the Medical Board functions. Permission has been obtained from Parliament to disclose this to your Honour [Annexure 1].

I have alleged irregularities with the conduct of the MBQ and with alleged Judicial misfeasance, ordinarily defined in law as "corrupt conduct" related to matters, for example, under the Criminal Code 1899 and the Crimes Act 1904 (Cth)

By this, I mean alleged serial judicial error relying on alleged mis/malfeasance leading to the miscarriage of justice, initially overlooked by the Crime and

Misconduct Commission (CMC) for various reasons including jurisdictional ones.

In the Appendix is a chronology of relevant events.
The Annexures hold greater detail of points.

I would first like to alert your Honour to a private publication (also formally submitted with the relevant parts), 'The Red Back Web' ISBN: 978-960-93-2463-2 (the book) which I have made numerous references to.

It comprehensively sets out the court evidence and other documents in relation to my matter.

It is technically a legal document by virtue of its recent submission to State Parliament.

Summary of Key Points.

1. In essence this case stemmed from a decision by the Queensland Medical Board to bar me from the medical profession.

   The key root cause events have never been independently highlighted until recently when whistle blower Jo Barber (ex MBQ investigator) sent an email to Dr Leong Ng who was researching Queensland Medical Board dysfunction and subsequent injustices including my case. [Annexure 2].

2. This root cause being MBQ corruption, in my view, contaminated all legalities which flowed (cf the Wednesbury case in [1947] EWCA Civ)
   The QMB followed a corrupted process

   The primary points are:

   i. The MBQ falsely accused me of not having completed the appropriate internship time in Surgery, that being 10 weeks according to the legislation. It is clear that I had worked 10 weeks in Surgery from the evidence. And further I worked over 14 weeks in Emergency Medicine that traditionally and at that time counted as a surgical rotation. Thus, this criterion was fulfilled, contrary to the MBQ claims.

      After challenging the time issue, the MBQ then invented complaints, not from patients but as comments from co-workers whom they had solicited and considered those ahead of those of my supervisors and mentors.

ii. The MBQ failed to follow the correct procedure and firstly investigate the allegations against me. The Investigation of complaints in relation to patients requires the patients to be identified and the records produced - which the MBQ did not do. The MBQ needed to show my conduct had harmed or had potential to harm to patients, which they did not. This reveals failure by the MBQ to exercise its powers under s93 of the Medical Practitioners Registration Act so as to test the allegations.

The MBQ did not investigate the patient complaints because there were none - the MBQ had invented them.

The MBQ's case against me as relayed in a Show Cause Notice dated 11th June 2003 revealed fraud and a malicious intent by the MBQ. (pp 245-250 of book)

The most serious of the complaints against me as stated by the MBQ was the "meningitis patient"

The MBQ stated the ***following***

"Dr Tsigounis saw a patient with meningitis in the Emergency Department. A lumbar puncture was performed; the patient was given a stat dose of Antibiotic and sent home. The patient was later recalled when the Lumbar Puncture results indicated a bacterial meningitis" (pp 256-247 of book)

Once the Medical Records were under subpoena on the first day of the District Court Hearing it was revealed that this patient JY did in fact not have "bacterial meningitis" but a simple headache.

The MBQ had appeared to have invented the complaint.

Despite having the medical notes before them the MBQ continued to maintain their claim in relation to this complaint. (Medical Notes of patient JY- exhibit- pp251-262 of book)

In fact they disclosed this false information to the media on the first day of the hearing.

It is clear that the MBQ had intent to deceive and mislead whatever court heard the matter and the public.

My evidence before the District Court in relation to this patient and the issues thereof was as follows (pp298-302 of book-transcript)

Similarly the other complaints put forth against me in this notice were fictitious - all proven as false by the evidence and the facts which were accessible to the MBQ the entire time and were also in the court evidence.

The Medical Board went further and solicited trivial complaints against me 10 months after I had resigned from the Townsville Hospital (pp 244-245- evidence by Nurse Webber, Nurse Lawty and Dr Lucas)

The most bizarre of these was when Nurse Rachael Neill made a formal complaint 10 months after I had left the hospital about my handwriting - that my L looked like a C when I wrote an order down "Anginine S/L). DCJ Wall agreed that my L looked like an L and not a C. (transcript- cross examination- pp271 of the book).

Despite this, the MBQ failed to put such complaints into perspective when coming to their decision.

iii. The MBQ erred also in not removing the imposed psychiatric conditions. During the hearing the MBQ said that they have never claimed that I had a psychiatric disorder (District Court of Townsville-transcript), but were comfortable to impose 'psychiatric conditions' on my registration.

The evidence in relation to this issue that was before the MBQ when assessing my application in May of 2003 was as follows (pp137-139 of book).

iv. The Process used in determining this case by the MBQ was couched in administrative irregularities with inconsistencies and errors in the Board's process and procedures. It may therefore be stated as *ultra vires*. [Annexure of Ch. 1, of the book, pp74-77]

v. The MBQ knew or should have known this case required a Medical Tribunal to be convened and not heard just by a single judge sitting alone. By not referring the matter to the Medical Tribunal as the legislation required, the QMB was in error and such corrupted the process – failure of due process and natural justice, thus again, possibly rendering the matter *ultra vires*

3. Numerous solicitors and Counsel were employed throughout the convoluted proceedings in my quest to seek justice. Numerous amendments to the Medical Practitioners Registration Act 2001 (and other related Acts) had also taken place during the period 2001 – 2007 (and continuing till 2010 when

National Registration came into force)

4. Mr Mark Dreyfus, QC in his role as my Barrister then (in 2003-4), attempted to obstruct the case from reaching the courts. This is evident by his conduct in a complaint I made to the Victorian Bar Ethics Committee, [file No BAR/04/086-Victorian Bar Ethics Committee] which was also submitted as evidence before the Supreme Court proceedings available in Volume 17 of their documents. [Annexure 3]

Mr Dreyfus did not respond to the complaint but the Victorian Bar Ethics Committee (the Committee), which he was a part of responded. I received a letter signed by Debbie Jones (Investigative Officer of the Committee) where it was also stated, *inter alia*

"Mr Dreyfus is a former member of the Committee. He ceased to be a member at the time your letter of complaint against him was received" (pg 169 of the book)

To date, it remains unknown why Mr Dreyfus and team suddenly withdrew from the case at a crucial point after a 10 month employment.

5. In the QLD appellate jurisdiction, Mr Tony Morris, QC, did not argue, as instructed the primary malice and fraud allegations, and the procedural errors that were identifiable from the court evidence relating to the conduct of the Medical Board of Queensland. (Segment of Transcript of Supreme Court Hearing- pp 237-239 of the book) [Annexure 4].

6. The Supreme Court Judges then appeared to have erred in overlooking the alleged concealment of the issues by various parties. [Annexure 5]

7. In the High Court Application for leave to appeal, as I was disadvantaged and beleaguered and could not find legal representation I represented myself and submitted a document detailing all the errors in law made by the lower court judges. Leave to appeal was refused without any argument as to the legalities put forth. (As I was not legally represented, rule 41.10 was invoked with summary dismissal)

8. A recently independently investigated and published series of articles by David Donovan (who is legally qualified) of Independent Australia on my matter analyses and comments on my case. (Reference 1)

9. Of interest to this case, and also published by Independent Australia are the following articles: "Psychological False Imprisonment in Australia" (reference 2) illustrating the inhumanity of falsely imprisoning someone

psychologically and "A Springborg to Medical Administration Reform (reference3) illustrating violations to the rule of the law in other medical establishments - even in the UK.

10. Finally, it is my belief that in the public interest, this case deserves to be reviewed and resolved because of its departure from the rule of law and an alleged gross violation of my humanity and thus the Australian Constitution. Similar cases must never happen again.

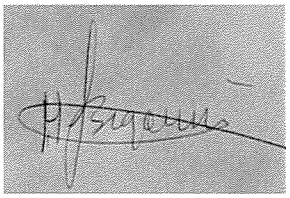
11. Specifically, I request your Honour to consider ordering an independent review in the general public interest, noting that the Health Ombudsman's Bill 2013 has passed its second reading on 20 Aug 2013, perhaps using its innovative guidance.

12. I would respectfully also request from your Honour to consider the issue that I had successfully and satisfactorily completed my Internship in Townsville.

Australia, as a young democratic monarchy, surely would espouse higher issues affecting human rights and placing them above that of administrative correctness, if there is such a term.

If your Honour's office or advisors need to contact me, please use this email: helentsigounis@gmail.com or my mobile in Greece +306948874205

Yours Sincerely,



Dr Helen Tsigounis

REFERENCES

1. David Donovan, 2012 "Keeping the doctor away" Independent Australia 3 articles. [Part 3 has links to Parts 1 & 2] *http://www.independentaustralia.net/2012/life/health/keeping-the-doctor-away-part-3/*

2. Dr Leong Ng, 2012, "Psychological False Imprisonment in Australia" Independent Australia *http://www.independentaustralia.net/2012/life/health/psychological-false-imprisonment-in-australia/*

3. Dr Leong Ng, 2013 "A Springborg to Medical Administration Reform?" Independent Australia (Dr Helen Tsigounis v Medical Board of Queensland (MBQ) *http://www.independentaustralia.net/2013/life/health/a-springborg-to-medical-administration-reform/*

APPENDIX

1998- Internship in Victoria: alleged misfeasance disclosed recently to an ongoing Victorian Parliament Inquiry into the performance of the Australian Health Practitioner Regulation Agency

1999 I took and passed medical reciprocity examinations in Greece and obtained a full European Medical License with unconditional registration.

2000 – 2001: I worked as a Resident in Anaesthetics and in the Intensive Care Unit in Athens and left with good references and a certificate of good standing

2002-2003 Chronology of Registration History in Queensland (also as an Annexure of ch1 of the book, pp 74-77 of book)

Chronology of Court Cases
2004-2007
Appeal against the MBQ Decisions

The Appeal was organized by Mr Mark Dreyfus. QC, to be heard at the District Court of Townsville by Judge Clive Wall, sitting alone instead of a Tribunal. It may be, based on the Health Practitioners (Professional Standards Act) Act 199, Qld Division 4, subdivision 3 s (31) that DCJ Wall may have acted beyond his powers as he conducted the case sitting alone.

Therefore if there was a jurisdictional error the matter could be considered as void or voidable *ab-initio*

District Court of Townsville [Dr Helen Tsigounis v Medical Board of Queensland. D1136 of 2004] Self Represented

First part 23/8/2004-25/8/2004,
Second part 31/1/2005- 11/2/2005 (Wall DCJ, QDC 103)

Judgments of the District Court
Tsigounis v Medical Board of Queensland [2005] QDC 103 (11 May 2005)

Supreme Court of Queensland Hearing
Tsigounis v Medical Board of Queensland 2006 QCA 295 (2 &3 Aug 2006)

Supreme Court Judgment
Tsigounis v Medical Board of Queensland [2006] QCA295 (15 August 2006)

.
High Court of Australia submission*

A 10-page document with 150 pages of attachments of evidence was filed with the High Court of Australia alleging judicial fraud, legal and judicial perversion to the course of justice and uncorrected errors of law. [Summarized in Annexures 6 & 7]

High Court of Australia Judgment
Tsigounis v Medical Board of Queensland (2007) HCA Trans 234 (24 May 2007)

ANNEXURES:

1. Public Interest Disclosure to Queensland Parliament, Aug 2013

2. Jo Barber, 29 May 2013: Private email to Dr Leong Ng

3. The complaint about Mr Dreyfus to the Victorian Bar Ethics Committee was also referred to during the District Court Hearing by DCJ Wall in relation to his withdrawal from the case at a crucial point.

   His Honour of the District Court refers to a proceeding on the 29/3/2004, before Judge White, where Mr Dreyfus organised the case to be listed and set down as a 5-day hearing at the District Court of Townsville (TX 235 L25)

   Counsel acting for the Medical Board also responded to this by stating, "there was plenty of correspondence between the parties as to whether 5

days would be adequate and we were reassured by Mr Dreyfus and his solicitors that it would be (TX 189 L40)

The Supreme Court Judges acknowledged the presence of this complaint before them. They stated in their judgment [par 61] "The appeal record contains material introduced by the applicant before this Court containing details of her complaint to the Victorian Bar Ethics Committee about the conduct of Mr. M Dreyfus, QC."

Further Mr Mark Dreyfus' conduct, based on the complaint that was before them, was referred by Supreme Court Justice Keane during the hearing as follows: "There seems to be a suggestion that Mr Dreyfus and perhaps his junior who had been acting in the matter had had their services dispensed with a week from the hearing"

The basis of the complaint to the Victorian Bar Ethics Committee was the late and sudden withdrawal of Mr Dreyfus from the case one-week before the hearing. The reasons were never formally disclosed.

4. Despite this, Mr T Morris, QC, when conducting the Supreme Court Hearing, identified and presented numerous errors of law, of utmost importance being bias by the primary Judge: a failure to apply an appropriate standard of proof to the evidence and the lack of natural justice resulting in an unfair trial. (Segments of Submission by Mr Morris to the Supreme Court: evidence quoted verbatim in pp 233-235 of the book and pp 317-320 and pp 294 of the book)

   Further During the Supreme Court Hearing, Mr Morris even concluded "It really does come across as a judge (DCJ Wall) who was eager to say anything against this Appellant (Dr Helen Tsigounis) that can be said, whether or not there was evidence for it or not"

5 The Supreme Court had erred, by their having been misled, participated in a sophisticated scheme to conceal issues and divert the focus on the matter, thus perverting the course of justice.

Firstly the Medical Board alleged malice and fraud issues that were available from the evidence before the Court (as in ch.7 of the book, pp 243-277)

The Supreme Court erred in ignoring this evidence and made findings that were contradicted by the court evidence. [69] C and D of Judgment. Tsigounis v MBQ [2006] 295 (15 August 2006)

Secondly the Supreme Court erred in not correcting the errors of law made by the District Court Judge, Mr C Wall, J (the Primary Judge) that

if he had done so may have led to a favorable outcome for me. Meaning that the entirety of the Medical Board's Decision, the subject of the appeal, was in error.

The alleged errors of law in relation to the Primary Judge's conduct of the case were as follows as also put before the High Court of Australia when seeking leave to appeal.

In particular were the following errors of law - that of "standard of proof" and the "unfair trial "

It was accepted by the District Court Judge that the Briginshaw standard needed to be applied because of serious consequences as stated below [Para 28 of Tsigounis v MBQ [2005] QDC]

CJ Wall ruled:

**Serious allegations of professional incompetence leveled against the Appellant*

**If resolved adversely to the Appellant they are to impact severely on her standing reputation, career and livelihood*

**No greater penalty could be suffered by a medical practitioner than de-registration which is the Medical Board's position and the subject of the appeal.*

**If the findings made by the Board stand, the appellant will find it extremely difficult if not impossible to obtain future employment as an intern and her registration as a medical practitioner in Greece would be at risk.*

DCJ Wall, then proceeded, without applying the Briginshaw standard to my case (thus an error of law that needed to be corrected) made findings such as unsatisfactory professional conduct, incompetence, negligence, lack of judgment and that my treatment of patients, placed them at serious risk.

The Supreme Court Judges dealt with the "Standard of Proof Issue" by stating that the standard of proof required in my case was not the Briginshaw standard, therefore Judge Wall made no error of law when he did not apply it to my case [Tsigounis v MBQ 2006 QCA 295 at paragraphs 75-79]

In concluding that the Briginshaw Standard did not apply, Keane J stated:

"the case did not involve a serious consequence, such as striking off a registered medical practitioner whose entitlement to practice has previously been established. Rather the case was concerned with whether the applicant had completed requirements necessary to be granted unconditionally" [Para 76-77 of Dr Helen Tsigounis v Medical Board of Queensland [2006] QCA 295 (15/8/2006)].

Long-standing principles that have consistently been applied to cases like mine were not applied in this case.

In fact it was demonstrable that DCJ Wall failed to apply any proper standard of proof to the evidence. (not even the Wednesbury standard)

In relation to the "unfair trial" issue the Supreme Court Judges concluded against my argument of lack of natural justice. (Par {56]-{68} Tsigounis v MBQ [2006] QCA 295 (15 August 2006)]

It is my opinion that the district Court Trial was unfair.
After being placed in a position to conduct the case myself by the Judge, I pleaded for an adjournment to obtain further legal representation. I said to the DCJ Wall on day 1 of the proceedings "but you have to understand my situation that I didn't know I'll be acting as solicitor and barrister today, and I certainly have not properly prepared and my solicitor has gone to try and find a new legal team."

DCJ Wall responded - " No I think we'll go as far as we can with the witness". I further expressed to the Judge "I have been lumped with doing the job of my solicitor, which, you know, is not appropriate because I didn't come here in order to act as solicitor and I have not prepared for it"(TX L15, day 1). My pleas fell on deaf ears. To an outsider, this is bullying.

On day 3, I again expressed to the Judge (TX 200, 25/8/2004) " Judge Wall, I haven't done this before and it was a bit of a surprise for me to represent my own case here in Townsville" where Judge Wall replied "I'd face the same difficulties if I were operating"

Further, The Judges appeared to use the Recency to practice issue to divert the focus of the Appeal. This was not a relevant issue and not the subject of the Appeal.

Diversion from the issues by the Supreme Court Judges occurred as in Ch. 9, pp324, and 325 of the book.

Two further errors of law were put before the High Court of Australia:

that being the Supreme Court Judges had erred in stating that the Briginshaw Standard of proof did not apply and secondly, they addressed the wrong issues. [Annexure 6]

6. Summary List of errors of law presented to Supreme Court Appeal,

1-2, Aug 2006

i. Failure by the primary Judge to apply the Briginshaw Standard of Proof to the evidence.

ii. Failure of the primary judge to apply even the civil standard of proof to the evidence.

iii. The primary judge was prejudicial towards the Applicant and his findings were tainted with bias.

iv. There was a denial of natural justice and procedural fairness resulting in an unfair trial.

v. The primary judge allowed inadmissible evidence before the court.

vi. The primary judge addressed the wrong issues.

vii. The primary judge acted beyond his powers when making a psychiatric diagnosis of the Applicant based on his observation of her while she conducted the case (personality defect).

viii. The primary judge erred in not determining breaches of statutory duty and procedural errors made by the MBQ.

ix. Failure of the primary judge to act on the alleged Medical Board Malice and Fraud issues that were revealed by the court evidence (The Root Cause)

Incidentally, the complaint I made to the Victorian Bar Ethics Committee also included the failure of Mr Dreyfus to have Judge Clive Wall disqualified from hearing this case as it was determined he knew a key witness- Dr Barry Hodges (Ch. 4. The Dreyfus Legal Team. Pp165)

7. A Summary List of Errors of Law as presented to the High Court of Australia

(*Comprehensive details in Submission to High Court in Case - Tsigounis

v Medical Board of Queensland (2007) HCA Trans 234 (24/5/2007)

i .Failure of the Supreme Court Judges to correct the above errors of law.

ii. A further error of law occurred where the Supreme Court Judges concluded that the Briginshaw standard was not applicable to this case

iii. The Supreme Court Judges further addressed the wrong issues

8. **A copy of my published book**, The Red Back Web with the relevant sections, accompanies this Submission.

It will be hand-delivered to your Honour's Office by Dr Russell Broadbent after the electronic submission of this communication.

Attachment 2

Dr Helen Tsigounis
18 Longview Avenue
East Bentleigh, Melbourne, 3165
Victoria, Australia

16/2/2016

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SENATE INQUIRY INTO MEDICAL COMPLAINTS REGIME

Independent Senator Nick Xenophon (South Australia)
Independent Senator John Madigan (Victoria)
Committee

This Submission with its attachment will be forwarded by email to both Senators and forwarded to secretariat of the committee

Dear Independent Senators of this committee, I note the **Terms of Reference** to this inquiry and would like to state that this submission is highly relevant.
In particular it covers a, c, d, g and h of the terms of reference

This is a horrific story, where I have been targeted and persecuted by the Medical Profession in Australia.

A SUMMARY OF MY PERSONAL AND REGISTRATION HISTORY

My name is Helen Tsigounis and I am Australian born from Greek parents who migrated to Australia with my grandparents in the 1950s.
I attended High School at Korowa Anglican Girls School in Melbourne
I completed a medical degree at Monash University in 1997 [MBBS]
I worked as an Intern at Frankston Hospital in Melbourne in 1998
I left Australia and went to Greece in 1999
I passed reciprocity medical exams in Greece in 2000
I worked as an Anaesthetic and ICU registrar in Athens in 2001, 2002.
I returned to Australia with the hope that I could live and work in the country that I was born.
I was employed at the Townsville Hospital in Queensland in 2002, 2003
The Medical Board of Queensland (MBQ) made a decision to Barr me indefinitely from the medical Profession based on incompetence.
I Appealed the Boards Decision in Legal action which began in 2003 and ended in 2007..
I have since, not been able to work as a doctor in my country and have been extremely traumatised by the events.

Some of the actions against me by members of the medical profession and members of the Medical Boards can be defined by law as "corrupt conduct" under the *"Criminal code Act 1995"* (Common Law) and "Criminal" under "*the Crimes Act 1914*"

I would firstly like to alert the Committee to a private publication of a book that I wrote to which I will be making references to, ***"The Red Back Web Book", ISBN: 978-960-93-2463-2.*** **Reference 1.**
It comprehensively sets out the Medical Boards conduct in my matter, the complaints levelled against me which became court evidence, and other relevant issues to this Inquiry.
All the references made in this document to particular sections of this book can be found in Court evidence in the Case of (Dr Helen Tsigounis v Medical Board of Queensland0 [D1136 of 2004].)
The Book dialogue has the references to the court evidence.
For convenience I will be referring to this book instead of directly referring to the court evidence.

"The Red Back Web Book' is technically a legal document as it stands on its own, and because it has previously been submitted to State Parliament.

I would also like to refer to the Senators to 3 published articles on my matter in *"Independent Australia"* by Investigative Journalist, David Donovan. **Reference 2.**

1. FRANKSTON HOSPITAL AND THE MEDICAL BOARD OR VICTORIA (1998, 1999)

Abuse of Power.
Bullying and Harassment,
Trivial complaints
Singled out,
Witch-Hunting.
Denial of Natural Justice,
Lack of Due Process
Lack of transparency.

The evidence to my claims is in a *Memorandum of the Events at the Frankston Hospital* written by a lawyer during that period and exhibited as evidence in the District Court Case .
This evidence is copied *in (Ch3, pp113-130).* **Reference 1**

2. TOWNSVILLE HOSPITAL AND THE MEDICAL BOARD OF QUEENSLAND (2002-2007)

Abuse of Power
Institutionalised Bullying
Harassment
False complaints
Trivial complaints
Delayed Complaints
Malice
Intent to cause harm

Administrative errors
Administrative irregularities
Administrative inconsistencies
Denial of natural justice
Lack of procedural fairness
Flawed procedure and process
Reckless Mismanagement
Lack of Transparency
Lack of Accountability
Fraud
Failure of the MBQ to comply with the legislation which governs it, *The Medical Practitioners Registration Act* of Queensland 2001*("the Act")*

"The Act" states (s11) that the function of the Medical Board is to monitor and enforce compliance to "the Act' and to register persons who satisfy the requirements of registration.
It further states that the Board must act independently, impartially and in a way that is consistent and with a proper consideration of the issues at hand.
It is clear from the following that the MBQ was in many ways in breach of "the Act"

(i) MEDICAL BOARD OF QUEENSLAND - Failure to Register, Flawed MBQ Process and Procedure, Administrative errors, irregularities and inconsistencies, lack of transparency and accountability and failure to comply to "the Act"

At the time I resigned from the Townsville Hospital on the 12th May 2003, all my official reports and Assessments by my supervisors revealed an above average performance.
These reports were sent to the MBQ by the hospital and by myself in April of 2003 in support of an application in which I made for a higher level of Registration.
In fact, as is clear from court documents, the Hospital assumed that my application would succeed and promoted me in this new position as an RMO (Resident Medical Officer).

Instead of granting me this new registration based on official documents, the MBQ sent a delegate, Dr Karen Yuen to the hospital, a few days after I resigned, to inquire about my performance and Competency.
Dr Karen Yuen spent 2 days investigating me and then wrote a report which was included in the MBQs Show Cause Notice (June 11th 2003) .In her report she informs me that MBQ rejected my registration based on incompetency. She stated the complaints against me as she discovered during her "visit" to the Townsville Hospital.

.

During the next 10 months, the MBQ continued their investigation into my performance, coming up with more complaints against me and presenting them to me in an ad hoc manner throughout this period.

The complaints were not brought to my attention whilst I was employed at the Townsville Hospital.
The Medical Board's decision was made on the 23 March 2004 to cancel my registration as a doctor Indefinitely based on incompetency.
They presented me the final complaints that they would rely on to justify their decision.

The Annexure to Ch. 1 pp74-77 of *The Red Back Web Book* reveals the MBQ's process and procedure illustrating the above stated flaws. **Reference 1**

(ii) THE MBQ COMPLAINTS

The complaints levelled against me by the MBQ and its witnesses are all included in signed Affidavits before the District Court of Townsville and are referred to in my Book.

"The Acute Bacterial Meningitis Patient", as it was referred to by the MBQ.
The most serious of the complaints as stated by the MBQ during the Court Hearing

Dr Karen Yuen's Evidence (MBQ) (June 11th Show Cause Notice) (pp245,.246 of **Reference 1**)

Dr Karen_Yuen states the following

> *"Dr Tsigounis saw a patient with meningitis in the Emergency Department. A lumbar puncture was performed, the patient was given a stat dose of antibiotic and sent home. The patient was later recalled when the lumbar puncture results indicated bacterial meningitis"*

This is the only information that was given to me in relation to this incident.
The patients name was not identified and his medical records were not made available.
How was I to respond to this statement?
My lawyers sent repeated letters to the MBQ over a 10 month period asking for more details.
The MBQ refused to comply.

The Medical records of this patient were made available on the first day of the court hearing (23/8/2004) in compliance to a subpoena.
The patient was identified as patient "*JY.* His Medical Records were exhibited as evidence during the Court Process(*pp251-262 of* **Reference 1.)**
What was revealed was horrendous, this patient did not have bacterial meningitis but a simple Headache. All tests performed were normal excluding the diagnosis of bacterial meningitis..
I did not perform a lumbar puncture, but this procedure was performed by another doctor the next day when JY represented with his headache.
The lumbar puncture results were negative and excluded the diagnosis of bacterial meningitis as did all other tests performed during this second visit to the Emergency Department.(ER)

It was revealed from the medical records that *JY* had many presentations to the (ER) with exactly the same symptoms as when I had seen him. Comparing the notes it was revealed in Court that my treatment of this patient was exactly the same as previous doctors that had seen him in the years prior to this particular admission.
Surely Dr Karen Yuen looked at the medical files of this patient during her 2 day visit and investigation.
It was revealed in the evidence of the court case that medical records of patients are easily available to doctors.
Dr Karen Yuen either invented the complaint or falsified the truth from the medical records.

Despite having the Medical Records before them on the first day of the court hearing, the MBQ continued to maintain their claim in relation to this patient.
In fact they disclosed the false information to the Townsville Bulletin on day one of the District Court Hearing and it was reported on the front page of this newspaper the next day as a *bacterial meningitis Patient.*
It is clear that the Medical Board had intent to deceive and mislead the court and the public.

Dr Karen Yuen commits ongoing fraud in relation to her complaints against me as in the June 11th Show Cause Notice of 2003.

She states the following (p246 of Reference 1):

> "*Dr Tsigounis discontinued her Emergency Department term after 2 weeks and Dr Hodges arranged another term for Dr Tsigounis. Following this, Dr Tsigounis showed no apparent insight into the implications on the work load of the Other Emergency Department Medical Staff*"

It was revealed by Hospital records that were subpoenaed from the Townsville Hospital that I worked In the Emergency Department for 18 weeks, a normal rotation being 10 weeks as revealed by "the Act" (Court Evidence-Exhibit)
Dr Yuen makes this statement despite having had access to the Medical Records from Medical Administration during her 2 day visit to the Hospital.
Her Claim was also stated despite the fact that these records were sent to the
MBQ with my application a month previously by myself and the hospital administration in support of my application
In evidence Dr Hodges admits that Dr Yuen's statement was false.
At the very least The Board failed to exercise its power under section 93 of "the Act" so to at least test the allegations put forth

<u>Evidence of Dr David Cooksley (Letter to MBQ dated 22/10/2003) (p250 of Reference 1)</u>

Dr Cooksley was one of The MBQ's key witnesses
Dr Cooksley states the following:

"Dr Tsigounis attended a patient with acute bacterial meningitis. She correctly diagnosed this condition and performed a lumbar puncture. One dose of Intravenous antibiotic was administered but Dr Tsigounis then discharged the patient from the emergency department without discussing the case with the registrar. The patient was then recalled to the Emergency Department and fortunately suffered no harm from the incident"

Under cross examination, I handed Dr Cooksley the medical records of this patient, pointing out the gross falsities in his statements.
Dr Cooksley became aggressive and said he had not seen this patient nor had he seen the patient's medical records when making his statements.
He made repeated and detailed false statements over a 10 month period included in his signed Affidavit knowing the consequences of such actions
Dr Cooksley was clearly malicious with an intent to cause harm.

The Cervical Rectal incident complaint

This is a complaint based on false, inconsistent hearsay material that is reported differently by each doctor's version.
This was inadmissible evidence by Australian Standards but despite this the Medical Board chose to rely on it and include it in the evidence before the Court of Law..
This complaint was also given to the Townsville Bulletin by the MBQ and was reported as fact.
I
Dr Karen Yuen reports the following - June 11th 2003 "Show Cause Notice"(p 246 of **Reference 1**)

"A patient required a rectal swab. A rectal swab was performed, then a vaginal swab using the same swab. The patient asked, Are you a doctor?"

Despite being specific, Dr Yuen fails to identify the patient or the medical records. In fact, neither was ever identified.

Dr David Cooksley states the following. ((22/10/2003- Letter to MBQ) (p 262 of **Reference 1**)

Dr Tsigounis attended a female patient who required a high vaginal swab. Dr Tsigounis took the patient to the paediatric room. This was an inappropriate location for undertaking that kind of procedure, as a dedicated gynaecology room is available. Whilst attempting to take the vaginal swab, Dr Tsigounis inserted the swab into the woman's rectum before using the same swab for the high vaginal specimen. The patient asked DrTsigounis if she was actually a doctor"

During his cross examination Dr Cooksley said he had not seen the patient but had heard about it from a nurse he could not remember to identify..

D r Julia Ashley (MBQ Witness) makes a statement to the Board which she includes in her signed Affidavit.

She states the following (p 263 of **Reference 1)**

> *"A lady was taken to the paediatric room for a pelvic examination and according to the nurse Helen swabbed the rectum before using the same swab for the cervix"*

When cross-examined in Court she could not remember who the nurse was who told her this information, nor could she identify the name of the patient or the medical files.

Dr Mark Elcock, MBQ Witness, states the following:
(Letter to MBQ dated 11/2003) (p 264 of **Reference 1**)

> *":PV(Vaginal) examination without chaperone.*
> *Inserted speculum into anus accidentally and apparently then inserted pv once patient told her it was in the wrong spot"*

Once again no patient was identified nor any medical records made available. He could not remember who told him this information during cross-examination.
Dr Niell Small was on leave when I worked at the Townsville Hospital.
When this was pointed out to him during his cross examination, using subpoenaed hospital records, he had to accept this was the case.

Despite the above he makes the following statement to the MBQ, 10 months after I left the hospital. .
(pp264-265 of **Reference 1)**

> *"A senior nurse reported an incident in which a speculum was inserted in the anus of a patient by Helen"*

The patient was never identified nor were any medical files
A speculum is very different to a swab as I established during the court hearing.
Dr Small states the following during cross examination when asked what the difference is:
A speculum is used to perform a vaginal examination. It has a blade about 5 inches long and 1.5 wide.
A swab is a small stick or a metal wire with a collecting bit of wool at the end.
He then denies any possibility one could confuse the two.
Surely the MBQ could clearly see the inconsistency of the statements, but despite this used all 4 versions of this alleged incident to further their cause.

The Trivial Complaints

The Medical Board solicited, through their lawyers, further trivial complaints that were common practice amongst doctors (which all 4 of the expert witnesses called in court agreed to).
Despite this they were accepted as complaints and later used as evidence by the MBQ.
All these complaints were sent to the MBQ in February of 2004.
They were all presented in signed Affidavits.

Lawyers acting for the MBQ were identified by hospital staff visiting the hospital during this Show Cause period that lasted for 10 months, looking for more complaints .
This was stated by witnesses called by the MBQ when asked in evidence why they made their complaints in a grossly delayed fashion. [*pp244-245- of The Red Back Web, evidence by Nurse Webber, Nurse Lawty and Dr Lucas"*] **Reference 1**

The most bizarre of these "trivial complaints was when Nurse Rachael Neill made the following formal complaint to which the MBQ accepted and included in their evidence!.

This complaint was also made in February of 2004.

This nurse stated that my L looked like a C when I wrote down a drug order.
During her cross examination, I asked Nurse Neill "*Did you have your glasses on when you looked at the chart?"* , whereby she answered *"I wear my glasses every day at work" (pp 271 of* **Reference 1.**
Even the District Court Judge-Judge Clive Wall said during the Court Hearing that the nurse was Mistaken and that my L indeed looked like an L and not a C.

Another bizarre complaint made by Dr Niell Small which was accepted by the MBQ and included in their evidence before the Court.

Dr Niell Small was on leave during my employment at the Townsville Hospital.
This was established by Court Documents.and before the Court that I did not improve during my time as a junior doctor at the Townsville Hospital.!

During his cross examination he admitted that he was indeed on leave and that he had never had any clinical contact with me.

3. THE LEGAL PROCESS

The Judicial process was flawed involving a cover up of the corruption by the MBQ and its witnesses.

District Court of Townsville [Dr Helen Tsigounis v Medical Board of Queensland D1136 of 2004]
[Wall DCJ] First Part 23/8/2004-25/8/2004, Second Part 31/1/2005 -11/2/2005
District Court Judgement:: Tsigounis v Medical Board of Queensland [2005] QDC 103 (11 May 2005)

Supreme Court of Queensland Hearing: 2006 QCA 295 (2, 3 August 2006)
Supreme Court Judgement: Tsigounis v Medical Board of Queensland [2006]
QCA 295 (15 August 2006).

A 10 page document with attachments of evidence was filed with the High Court of Australia alleging, cover up of MBQ corruption, legal and judicial perversion to the court of justice, uncorrected errors of Law made by previous Judges and Judgements based on Fraud.
High Court of Australia, Leave to Appeal was rejected.
High Court Judgement: Tsigounis v Medical Board of Queensland (2007) Trans 234 (24 May 2007)

A submission was made to the Chief of Justice of Queensland, The Honourable Paul De Jersey, AC on the 25 September 2013, forwarding also a copy of my book, "*The Red Back Web*" which supported my claims.
This was not responded to.

I believe my case needs to be reviewed and resolved because of a departure from the rule of law and It's gross violation of my humanity and thus the Australian Constitution.

It appears that some of these problems are widespread national issues and that my situation has similarities to other cases of doctors who have been targeted

As a final note, I would like to refer the Senators to another article published in "Independent Australia", *"Psychological False Imprisonment in Australia"* by Dr Leong Ng. **Reference 3.**

I hope my submission is of help to the Inquiry

Yours Sincerely

H. Tsigounis

Dr Helen Tsigounis

REFERENCES

1. *The Red Back Web Book* by Dr Helen Tsigounis..
This is given as a separate pdf document, an attachment to this submission.

2 .David Donovan. *Keeping the Doctor Away*, three articles.(Part 3 has links to Parts 1 and 2). Independent Australia.
https://independentaustralia.net/life/life-display/keeping-the-doctor-away-part-3,4489

(iii) Dr Leong Ng, *"Psychological False Imprisonment in Australia"*. Independent Australia.
https://independentaustralia.net/australia/australia-display/psychological-false-imprisonment-in-australia,4794

Attachment 3

Dr Helen Tsigounis
c/- Holy Trinity Church
21 L. Mavili Street,
Corfu
Greece
25 Sept 2013

Delivered by Hand by Dr R Broadbent

The Honourable Paul de Jersey, AC
Chief Justice
Supreme Court of Queensland
Brisbane

Dear Chief Justice,

Notification about alleged Judicial administrative misfeasance

I wish to bring this case, (Dr Helen Tsigounis v Medical Board of Queensland (MBQ) to your Honour's attention with the hope that justice is finally upheld. It reveals MBQ, legal and Judicial corruption (as defined by Australian Law), and departure from the rule of law.

Presently, I possess unconditional Full Registration in Greece (and therefore, by law, in the EU) and work when able, as a locum General Practitioner in Greece. I cannot return to practice as a doctor in Australia where I was born, raised and professionally trained because of the matter notified.

My case is a complex one for various reasons and I beg your Honour's indulgence and patience in understanding the convoluted ramifications and their overlap with administrative issues and to consider applying an inquisitorial rather than an adversarial approach to my matter.

The basis of this complaint was a redirection for judicial scrutiny under the Public Interest Disclosure Act 2010, in response to the Health Minister's bold announcements on policy reforms with matters concerning the Medical Board functions. Permission has been obtained from Parliament to disclose this to your Honour [Annexure 1].

I have alleged irregularities with the conduct of the MBQ and with alleged Judicial misfeasance, ordinarily defined in law as "corrupt conduct" related to matters, for example, under the Criminal Code 1899 and the Crimes Act 1904 (Cth)

By this, I mean alleged serial judicial error relying on alleged mis/malfeasance leading to the miscarriage of justice, initially overlooked by the Crime and

Misconduct Commission (CMC) for various reasons including jurisdictional ones.

In the Appendix is a chronology of relevant events.
The Annexures hold greater detail of points.

I would first like to alert your Honour to a private publication (also formally submitted with the relevant parts), 'The Red Back Web' ISBN: 978-960-93-2463-2 (the book) which I have made numerous references to.

It comprehensively sets out the court evidence and other documents in relation to my matter.

It is technically a legal document by virtue of its recent submission to State Parliament.

Summary of Key Points.

1. In essence this case stemmed from a decision by the Queensland Medical Board to bar me from the medical profession.

   The key root cause events have never been independently highlighted until recently when whistle blower Jo Barber (ex MBQ investigator) sent an email to Dr Leong Ng who was researching Queensland Medical Board dysfunction and subsequent injustices including my case. [Annexure 2].

2. This root cause being MBQ corruption, in my view, contaminated all legalities which flowed (cf the Wednesbury case in [1947] EWCA Civ)
   The QMB followed a corrupted process

   The primary points are:

   i. The MBQ falsely accused me of not having completed the appropriate internship time in Surgery, that being 10 weeks according to the legislation. It is clear that I had worked 10 weeks in Surgery from the evidence. And further I worked over 14 weeks in Emergency Medicine that traditionally and at that time counted as a surgical rotation. Thus, this criterion was fulfilled, contrary to the MBQ claims.

      After challenging the time issue, the MBQ then invented complaints, not from patients but as comments from co-workers whom they had solicited and considered those ahead of those of my supervisors and mentors.

ii. The MBQ failed to follow the correct procedure and firstly investigate the allegations against me. The Investigation of complaints in relation to patients requires the patients to be identified and the records produced - which the MBQ did not do. The MBQ needed to show my conduct had harmed or had potential to harm to patients, which they did not. This reveals failure by the MBQ to exercise its powers under s93 of the Medical Practitioners Registration Act so as to test the allegations.

The MBQ did not investigate the patient complaints because there were none - the MBQ had invented them.

The MBQ's case against me as relayed in a Show Cause Notice dated 11th June 2003 revealed fraud and a malicious intent by the MBQ. (pp 245-250 of book)

The most serious of the complaints against me as stated by the MBQ was the "meningitis patient"

The MBQ stated the ***following***

"Dr Tsigounis saw a patient with meningitis in the Emergency Department. A lumbar puncture was performed; the patient was given a stat dose of Antibiotic and sent home. The patient was later recalled when the Lumbar Puncture results indicated a bacterial meningitis" (pp 256-247 of book)

Once the Medical Records were under subpoena on the first day of the District Court Hearing it was revealed that this patient JY did in fact not have "bacterial meningitis" but a simple headache.

The MBQ had appeared to have invented the complaint.

Despite having the medical notes before them the MBQ continued to maintain their claim in relation to this complaint. (Medical Notes of patient JY- exhibit- pp251-262 of book)

In fact they disclosed this false information to the media on the first day of the hearing.

It is clear that the MBQ had intent to deceive and mislead whatever court heard the matter and the public.

My evidence before the District Court in relation to this patient and the issues thereof was as follows (pp298-302 of book-transcript)

Similarly the other complaints put forth against me in this notice were fictitious - all proven as false by the evidence and the facts which were accessible to the MBQ the entire time and were also in the court evidence.

The Medical Board went further and solicited trivial complaints against me 10 months after I had resigned from the Townsville Hospital (pp 244-245- evidence by Nurse Webber, Nurse Lawty and Dr Lucas)

The most bizarre of these was when Nurse Rachael Neill made a formal complaint 10 months after I had left the hospital about my handwriting - that my L looked like a C when I wrote an order down "Anginine S/L). DCJ Wall agreed that my L looked like an L and not a C. (transcript- cross examination- pp271 of the book).

Despite this, the MBQ failed to put such complaints into perspective when coming to their decision.

iii. The MBQ erred also in not removing the imposed psychiatric conditions. During the hearing the MBQ said that they have never claimed that I had a psychiatric disorder (District Court of Townsville-transcript), but were comfortable to impose 'psychiatric conditions' on my registration.

The evidence in relation to this issue that was before the MBQ when assessing my application in May of 2003 was as follows (pp137-139 of book).

iv. The Process used in determining this case by the MBQ was couched in administrative irregularities with inconsistencies and errors in the Board's process and procedures. It may therefore be stated as *ultra vires*. [Annexure of Ch. 1, of the book, pp74-77]

v. The MBQ knew or should have known this case required a Medical Tribunal to be convened and not heard just by a single judge sitting alone. By not referring the matter to the Medical Tribunal as the legislation required, the QMB was in error and such corrupted the process – failure of due process and natural justice, thus again, possibly rendering the matter *ultra vires*

3. Numerous solicitors and Counsel were employed throughout the convoluted proceedings in my quest to seek justice. Numerous amendments to the Medical Practitioners Registration Act 2001 (and other related Acts) had also taken place during the period 2001 – 2007 (and continuing till 2010 when

National Registration came into force)

4. Mr Mark Dreyfus, QC in his role as my Barrister then (in 2003-4), attempted to obstruct the case from reaching the courts. This is evident by his conduct in a complaint I made to the Victorian Bar Ethics Committee, [file No BAR/04/086-Victorian Bar Ethics Committee] which was also submitted as evidence before the Supreme Court proceedings available in Volume 17 of their documents. [Annexure 3]

Mr Dreyfus did not respond to the complaint but the Victorian Bar Ethics Committee (the Committee), which he was a part of responded. I received a letter signed by Debbie Jones (Investigative Officer of the Committee) where it was also stated, *inter alia*

"Mr Dreyfus is a former member of the Committee. He ceased to be a member at the time your letter of complaint against him was received" (pg 169 of the book)

To date, it remains unknown why Mr Dreyfus and team suddenly withdrew from the case at a crucial point after a 10 month employment.

5. In the QLD appellate jurisdiction, Mr Tony Morris, QC, did not argue, as instructed the primary malice and fraud allegations, and the procedural errors that were identifiable from the court evidence relating to the conduct of the Medical Board of Queensland. (Segment of Transcript of Supreme Court Hearing- pp 237-239 of the book) [Annexure 4].

6. The Supreme Court Judges then appeared to have erred in overlooking the alleged concealment of the issues by various parties. [Annexure 5]

7. In the High Court Application for leave to appeal, as I was disadvantaged and beleaguered and could not find legal representation I represented myself and submitted a document detailing all the errors in law made by the lower court judges. Leave to appeal was refused without any argument as to the legalities put forth. (As I was not legally represented, rule 41.10 was invoked with summary dismissal)

8. A recently independently investigated and published series of articles by David Donovan (who is legally qualified) of Independent Australia on my matter analyses and comments on my case. (Reference 1)

9. Of interest to this case, and also published by Independent Australia are the following articles: "Psychological False Imprisonment in Australia" (reference 2) illustrating the inhumanity of falsely imprisoning someone

psychologically and "A Springborg to Medical Administration Reform (reference3) illustrating violations to the rule of the law in other medical establishments - even in the UK.

10. Finally, it is my belief that in the public interest, this case deserves to be reviewed and resolved because of its departure from the rule of law and an alleged gross violation of my humanity and thus the Australian Constitution. Similar cases must never happen again.

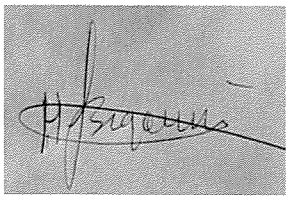
11. Specifically, I request your Honour to consider ordering an independent review in the general public interest, noting that the Health Ombudsman's Bill 2013 has passed its second reading on 20 Aug 2013, perhaps using its innovative guidance.

12. I would respectfully also request from your Honour to consider the issue that I had successfully and satisfactorily completed my Internship in Townsville.

Australia, as a young democratic monarchy, surely would espouse higher issues affecting human rights and placing them above that of administrative correctness, if there is such a term.

If your Honour's office or advisors need to contact me, please use this email: helentsigounis@gmail.com or my mobile in Greece +306948874205

Yours Sincerely,



Dr Helen Tsigounis

REFERENCES

1. David Donovan, 2012 "Keeping the doctor away" Independent Australia 3 articles. [Part 3 has links to Parts 1 & 2]
http://www.independentaustralia.net/2012/life/health/keeping-the-doctor-away-part-3/

2. Dr Leong Ng, 2012, "Psychological False Imprisonment in Australia" Independent Australia
http://www.independentaustralia.net/2012/life/health/psychological-false-imprisonment-in-australia/

3. Dr Leong Ng, 2013 "A Springborg to Medical Administration Reform?" Independent Australia (Dr Helen Tsigounis v Medical Board of Queensland (MBQ) *http://www.independentaustralia.net/2013/life/health/a-springborg-to-medical-administration-reform/*

APPENDIX

1998- Internship in Victoria: alleged misfeasance disclosed recently to an ongoing Victorian Parliament Inquiry into the performance of the Australian Health Practitioner Regulation Agency

1999 I took and passed medical reciprocity examinations in Greece and obtained a full European Medical License with unconditional registration.

2000 – 2001: I worked as a Resident in Anaesthetics and in the Intensive Care Unit in Athens and left with good references and a certificate of good standing

2002-2003 Chronology of Registration History in Queensland (also as an Annexure of ch1 of the book, pp 74-77 of book)

Chronology of Court Cases
2004-2007
Appeal against the MBQ Decisions

The Appeal was organized by Mr Mark Dreyfus. QC, to be heard at the District Court of Townsville by Judge Clive Wall, sitting alone instead of a Tribunal. It may be, based on the Health Practitioners (Professional Standards Act) Act 199, Qld Division 4, subdivision 3 s (31) that DCJ Wall may have acted beyond his powers as he conducted the case sitting alone.

Therefore if there was a jurisdictional error the matter could be considered as void or voidable *ab-initio*

District Court of Townsville [Dr Helen Tsigounis v Medical Board of Queensland. D1136 of 2004] Self Represented

First part 23/8/2004-25/8/2004,
Second part 31/1/2005- 11/2/2005 (Wall DCJ, QDC 103)

Judgments of the District Court
Tsigounis v Medical Board of Queensland [2005] QDC 103 (11 May 2005)

Supreme Court of Queensland Hearing
Tsigounis v Medical Board of Queensland 2006 QCA 295 (2 &3 Aug 2006)

Supreme Court Judgment
Tsigounis v Medical Board of Queensland [2006] QCA295 (15 August 2006)

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High Court of Australia submission*

A 10-page document with 150 pages of attachments of evidence was filed with the High Court of Australia alleging judicial fraud, legal and judicial perversion to the course of justice and uncorrected errors of law. [Summarized in Annexures 6 & 7]

High Court of Australia Judgment
Tsigounis v Medical Board of Queensland (2007) HCA Trans 234 (24 May 2007)

ANNEXURES:

1. Public Interest Disclosure to Queensland Parliament, Aug 2013

2. Jo Barber, 29 May 2013: Private email to Dr Leong Ng

3. The complaint about Mr Dreyfus to the Victorian Bar Ethics Committee was also referred to during the District Court Hearing by DCJ Wall in relation to his withdrawal from the case at a crucial point.

   His Honour of the District Court refers to a proceeding on the 29/3/2004, before Judge White, where Mr Dreyfus organised the case to be listed and set down as a 5-day hearing at the District Court of Townsville (TX 235 L25)

   Counsel acting for the Medical Board also responded to this by stating, "there was plenty of correspondence between the parties as to whether 5

days would be adequate and we were reassured by Mr Dreyfus and his solicitors that it would be (TX 189 L40)

The Supreme Court Judges acknowledged the presence of this complaint before them. They stated in their judgment [par 61] "The appeal record contains material introduced by the applicant before this Court containing details of her complaint to the Victorian Bar Ethics Committee about the conduct of Mr. M Dreyfus, QC."

Further Mr Mark Dreyfus' conduct, based on the complaint that was before them, was referred by Supreme Court Justice Keane during the hearing as follows: "There seems to be a suggestion that Mr Dreyfus and perhaps his junior who had been acting in the matter had had their services dispensed with a week from the hearing"

The basis of the complaint to the Victorian Bar Ethics Committee was the late and sudden withdrawal of Mr Dreyfus from the case one-week before the hearing. The reasons were never formally disclosed.

4. Despite this, Mr T Morris, QC, when conducting the Supreme Court Hearing, identified and presented numerous errors of law, of utmost importance being bias by the primary Judge: a failure to apply an appropriate standard of proof to the evidence and the lack of natural justice resulting in an unfair trial. (Segments of Submission by Mr Morris to the Supreme Court: evidence quoted verbatim in pp 233-235 of the book and pp 317-320 and pp 294 of the book)

   Further During the Supreme Court Hearing, Mr Morris even concluded "It really does come across as a judge (DCJ Wall) who was eager to say anything against this Appellant (Dr Helen Tsigounis) that can be said, whether or not there was evidence for it or not"

5 The Supreme Court had erred, by their having been misled, participated in a sophisticated scheme to conceal issues and divert the focus on the matter, thus perverting the course of justice.

Firstly the Medical Board alleged malice and fraud issues that were available from the evidence before the Court (as in ch.7 of the book, pp 243-277)

The Supreme Court erred in ignoring this evidence and made findings that were contradicted by the court evidence. [69] C and D of Judgment. Tsigounis v MBQ [2006] 295 (15 August 2006)

Secondly the Supreme Court erred in not correcting the errors of law made by the District Court Judge, Mr C Wall, J (the Primary Judge) that

if he had done so may have led to a favorable outcome for me. Meaning that the entirety of the Medical Board's Decision, the subject of the appeal, was in error.

The alleged errors of law in relation to the Primary Judge's conduct of the case were as follows as also put before the High Court of Australia when seeking leave to appeal.

In particular were the following errors of law - that of "standard of proof" and the "unfair trial "

It was accepted by the District Court Judge that the Briginshaw standard needed to be applied because of serious consequences as stated below [Para 28 of Tsigounis v MBQ [2005] QDC]

CJ Wall ruled:

**Serious allegations of professional incompetence leveled against the Appellant*

**If resolved adversely to the Appellant they are to impact severely on her standing reputation, career and livelihood*

**No greater penalty could be suffered by a medical practitioner than de-registration which is the Medical Board's position and the subject of the appeal.*

**If the findings made by the Board stand, the appellant will find it extremely difficult if not impossible to obtain future employment as an intern and her registration as a medical practitioner in Greece would be at risk.*

DCJ Wall, then proceeded, without applying the Briginshaw standard to my case (thus an error of law that needed to be corrected) made findings such as unsatisfactory professional conduct, incompetence, negligence, lack of judgment and that my treatment of patients, placed them at serious risk.

The Supreme Court Judges dealt with the "Standard of Proof Issue" by stating that the standard of proof required in my case was not the Briginshaw standard, therefore Judge Wall made no error of law when he did not apply it to my case [Tsigounis v MBQ 2006 QCA 295 at paragraphs 75-79]

In concluding that the Briginshaw Standard did not apply, Keane J stated:

"the case did not involve a serious consequence, such as striking off a registered medical practitioner whose entitlement to practice has previously been established. Rather the case was concerned with whether the applicant had completed requirements necessary to be granted unconditionally" [Para 76-77 of Dr Helen Tsigounis v Medical Board of Queensland [2006] QCA 295 (15/8/2006)].

Long-standing principles that have consistently been applied to cases like mine were not applied in this case.

In fact it was demonstrable that DCJ Wall failed to apply any proper standard of proof to the evidence. (not even the Wednesbury standard)

In relation to the "unfair trial" issue the Supreme Court Judges concluded against my argument of lack of natural justice. (Par {56]-{68} Tsigounis v MBQ [2006] QCA 295 (15 August 2006)]

It is my opinion that the district Court Trial was unfair.
After being placed in a position to conduct the case myself by the Judge, I pleaded for an adjournment to obtain further legal representation. I said to the DCJ Wall on day 1 of the proceedings "but you have to understand my situation that I didn't know I'll be acting as solicitor and barrister today, and I certainly have not properly prepared and my solicitor has gone to try and find a new legal team."

DCJ Wall responded - " No I think we'll go as far as we can with the witness". I further expressed to the Judge "I have been lumped with doing the job of my solicitor, which, you know, is not appropriate because I didn't come here in order to act as solicitor and I have not prepared for it"(TX L15, day 1). My pleas fell on deaf ears. To an outsider, this is bullying.

On day 3, I again expressed to the Judge (TX 200, 25/8/2004) " Judge Wall, I haven't done this before and it was a bit of a surprise for me to represent my own case here in Townsville" where Judge Wall replied "I'd face the same difficulties if I were operating"

Further, The Judges appeared to use the Recency to practice issue to divert the focus of the Appeal. This was not a relevant issue and not the subject of the Appeal.

Diversion from the issues by the Supreme Court Judges occurred as in Ch. 9, pp324, and 325 of the book.

Two further errors of law were put before the High Court of Australia:

that being the Supreme Court Judges had erred in stating that the Briginshaw Standard of proof did not apply and secondly, they addressed the wrong issues. [Annexure 6]

6. Summary List of errors of law presented to Supreme Court Appeal,

1-2, Aug 2006

i. Failure by the primary Judge to apply the Briginshaw Standard of Proof to the evidence.

ii. Failure of the primary judge to apply even the civil standard of proof to the evidence.

iii. The primary judge was prejudicial towards the Applicant and his findings were tainted with bias.

iv. There was a denial of natural justice and procedural fairness resulting in an unfair trial.

v. The primary judge allowed inadmissible evidence before the court.

vi. The primary judge addressed the wrong issues.

vii. The primary judge acted beyond his powers when making a psychiatric diagnosis of the Applicant based on his observation of her while she conducted the case (personality defect).

viii. The primary judge erred in not determining breaches of statutory duty and procedural errors made by the MBQ.

ix. Failure of the primary judge to act on the alleged Medical Board Malice and Fraud issues that were revealed by the court evidence (The Root Cause)

Incidentally, the complaint I made to the Victorian Bar Ethics Committee also included the failure of Mr Dreyfus to have Judge Clive Wall disqualified from hearing this case as it was determined he knew a key witness- Dr Barry Hodges (Ch. 4. The Dreyfus Legal Team. Pp165)

7. A Summary List of Errors of Law as presented to the High Court of Australia

(*Comprehensive details in Submission to High Court in Case - Tsigounis

v Medical Board of Queensland (2007) HCA Trans 234 (24/5/2007)

i .Failure of the Supreme Court Judges to correct the above errors of law.

ii. A further error of law occurred where the Supreme Court Judges concluded that the Briginshaw standard was not applicable to this case

iii. The Supreme Court Judges further addressed the wrong issues

8. **A copy of my published book**, The Red Back Web with the relevant sections, accompanies this Submission.

It will be hand-delivered to your Honour's Office by Dr Russell Broadbent after the electronic submission of this communication.

Attachment 4

The Victorian Barr Ethics Committee
Investigation Officer.
Attention: Debbie Jones.

Dear Ms Jones,

I thank you for your letter dated 1/12/04.
I am forwarding a summary of events regarding my situation.
I will now answer the questions put forth with copies of supporting documents.

This is an appeal against a decision made by the Medical Board of Queensland to cancel my registration as a doctor which occurred one year after I completed my internship and three show cause notices later.

My solicitors were Mark Dreyfus, Jane Dickson, and Leone Brassier. All instructions were forwarded to Mr. Mark Dreyfus. At all times Jane Dickson and Leone Brassier followed instructions from Mark Dreyfus.

Question (1): Failed to follow clear written instructions

In accordance with the Victorian Bar practice rules pursuant to part 2 "Duty to Client" rule 10, Mr. Dreyfus did not follow my instructions as did not include "free and unfettered statement of every fact and the use of every argument that can legitimately lead to that end according to the principles and practice of the law".

Pursuant to part 2 "Duty to Client" rule 11 Mr.Dreyfus failed to "protect the client's interests to the best of the barristers' skills and diligence.

Pursuant to part 2 "Duty to Client" rule 14 Mr. Dreyfus failed to act on the following instructions in time therefore on "A Barrister must take all reasonable and practical steps to ensure that professional commitments are fulfilled, or that early notice is given if they cannot be fulfilled.

(1) Failure to send letters of demand to my Medical Insurance despite initial agreement.
Refer to documents included
This had the potential to cause financial obstruction to my case.

(2) Failure to follow through instructions related to MBOV despite initial agreement.
Refer to documents included.
It was agreed in council that we would transfer my cases to Victoria and then appeal any adverse decision.
1. This had the benefit of speeding up any legal process in an appeal against any adverse decision by the Medical Board of Victoria, as VCAT and 2. We would be in familiar territory and 3. IT was always my intension to obtain registration at my place of residence.

(3) Failure to follow instructions so as to present the best argument for my case that is General Registration.
(a) Failure to include the most relevant witnesses before the court and failure to contact relevant witnesses for affidavits.
The witnesses' are- Dr.Aruna Munasinghe appointed registrar who assessed me after working with him in ICU, Medicine and 3 ½ months of Emergency.
His ref is forwarded.

Dr.Jim Holland – Registrar supervising me in Emergency Medicine for 3 ½ Months.
His ref is included.

Dr. Naada- My appointed registrar in Medicine who I worked with closely and who was appointed to assess me. **See ref included**.

The following registrars were my appointed supervisors for surgery who were appointed to fill out intern assessment forms and did so in my favor. **References included.**
-Dr.Cu Thai (Urology)
-Dr. Kavsak (General Surgery)
-Dr.Huvsa (E.N.T. Surgery)
-Dr.Raad Almehdi (Vascular Surgery)
Refer documents (6)

Failure to include affidavits from Interns I worked with. **Refer documents**

(b) Failure to point out inconsistencies and inaccuracies of witnesses against me, despite instructions. **Refer documents** .)

(c) Failure to limit witnesses to relevant witnesses.
- Refer to documents .,
- Refer to preliminary hearing. (29/3/03, in Brisbaine heard by Judge White)

(d) Failure to give all information relevant to my case before the court.
- This includes Frankston Hospital. – **refer to instruction** .

(e) Failure to appropriately subpoena relevant documents in order to obtain information that is to my benefit. **Refer to document**
Refer to (day 3) . of transcript during 4 day court proceedings in Townsville.

(f) Failure to point out particular conduct of Medical Board of Queensland despite their conduct being "poor".
-Refer to memorandums
-Refer documents instructing Mr. Dreyfus to give all information regarding correspondence between Medical Board of Queensland and solicitors.
-Refer to folder of information notices.
-Refer to my instructions in documents.

(g) Failure to follow instructions in giving argument against a Judge from Townsville.
-Refer to documents with my instructions.
-Refer to preliminary hearing transcript. (29/3/03, Brisbaine heard by Judge White)
(h) Failure to disqualify Judge Wall from Townsville despite accepted bias by Mr. Mark Dreyfus and despite Judge Wall admitting to knowing one of the key witnesses
(Dr. Barry Hodgers).
-Refer documents.

(i) Failure to follow my instructions and include expert witnesses that strengthen my argument.
Refer . Dr. Rosenblun
Refer Dr. A Papageliş
-Refer to documents as to my instructions.

(j) Failure to follow instructions regarding obtaining expert witnesses outside Australia.
Refer documents.

(k) Failure to correct Mr. O'Dempsy's affidavit (the executive officer for Medical Board of Queensland as to his summary of events) despite my instructions.
- **Refer to O'Dempsy's affidavit.**
- **Refer to document as to my instructions**

(L) Failure to follow my instructions and start proceedings against Townsville Hospital and Medical Board of Queensland for inadequate conduct.
-**Refer documents**.

Conclusion.
All these shortcomings by MR. Mark Dreyfus and his failure to follow repeated instructions has resulted in manipulation of their argument and has weakened my argument for General Registration, as not all attempts and facts have been included before the Court.

Qu 2 Failed to include crucial information before the court.

A. Failed to include crucial information in my Affidavit.

1. Details regarding Frankston Hospital and Victorian Medical Board in 1998/1999.
   i) Failure to include excellent references.
   ii) Failure to include that suspension by Dr Elanor Flynn did not offer Natural Justice.
   iii) Failure to put suspension in perspective of mistakes that interns made that year.
   iv) Failure to include bullying by Dr Elanor Flynn.

Documents included:

- References
- Solicitor Jholl's letters
- Dr Oblongaters' letter
- Conversation Dr Nyagam
- Conversation with Dr Thevathansan
- Letter Dr Fredrich Chan

2. Medical Board of Victoria (1998,1999)
   i) Failure to include members of board meeting including Dr Jo Flynn (Dr Elanor Flynn's sister) and the conflict of interest.
   ii) Psychiatric shopping until the Medical Board of Victoria found a Psychiatrist to make adverse finding.
   iii) Failure to include 2 independent psychiatric reports that were before the Medical Board.
   iv) Failure to include report from board nominated Psychiatrist Dr F Judd.
   v) Conditions placed on my registration by the Medical Board of Victoria incongruous with Psychiatric reports.
   vi) Failure to include great attempts made to complete internship in Victoria.

Documents included:

- 3 Psychiatric reports.
- conditions placed by the Medical Board of Victoria.
- Information by Solicitor Tanya Cirkovich

3. Townsville Hospital (2002, 2003)

   i)Failure to give appropriate weight to doctors that I was assigned to work with as an intern and doctors who I have never seen that made very delayed complaints against me, or doctors that I worked with briefly as a second year doctor.

   Dr Aruna Munasingh (register in ICU 6 weeks, Medicine 3 weeks Emergency 3.5 months)
   Dr Naada (Medical Registrar 3 months)
   Dr Jim Holland (emergency 3.5 months)
   Dr Ian Shellshear (consultant Paeds 6 weeks)

Dr Cu Thai (Surgery Registrar to whom I was appointed to)
Dr Kausak (Surgery Registrar to whom I was appointed to)
Dr Raad Almedi (Surgery Registrar to whom I was appointed to)
Dr Huvsa (Surgery Registrar to whom I was appointed to)
Dr Andrew Coley (Consultant in Emergency Medicine)
Dr Neil Small (never spoke to or saw)
Dr Cooksley (minimal contact)
Dr P Lukas (never saw)
Dr J Lukas (never saw)
Dr Priantha R (cardiology 1 week, 2nd year doctor)
Dr P Martin (cardiology 3 days, 2nd year doctor)

ii) Failure to include what the hospital put before the Medical Board of Queensland at time of application for registration

Jan2003 (see documents)
April2003 (see documents)

iii) Failure to include inappropriateness of hospital (Dr P. Keary) to include well after completion of internship false hearsay information from Dr Julia Ashley to Medical Board of Queensland which began an investigation against me. The hospital could have clarified this information before it was sent to Medical Board by:
a) checking Medical notes
b) discussing it with myself
They did neither.

- Document of Dr P. Keary included.

Failure to Include psychiatric assesment during Intern year - Dr Shand

4. **Medical Board of Queensland**

• Document included

i) Failure to point out breech of code of conduct of Medical Board of Queensland.
Eg of this (See Qu 1)
ii) Failure to include inconsistencies and procedural unfairness of Medical Board of Queensland.

- Documents included:
  Folder notices with summary

B. **Failure to include crucial material before the court**

i) Failure to include Affidavits or supener relevant witnesses before the court. .

Dr Aruna Munasingh
Dr Naada
Dr J Holland
Dr Cu-Thai
Dr Kausa
Dr Huvsa
Dr Raad Almedi

All appointed registrars that I worked with that, were appointed to assess me.

- See references included.

ii) Failure to include inconsistencies of witness against me over 1 year period and 3 show cause notices.
iii) Failure to point out Medical Board's prompting witnesses against me well after I left hospital.
iv) Failure to point out key letter of Dr P Keary dated 29/09/03 and its significance.

C. **Failure to include supplementary affidavit**

D. **Failure to include corrections in O'Demsy's affidavit.**

. **Failure to include expert witnesses in my favour**
Prof. Paddy Dewan's letter
Dr A Papagelis letter
Dr Rosenblum's letter

F. **Failure to include crucial information regarding medical school.**

G. **Failure to include crucial information regarding blacklisting system at Monash Medical School involving Dr M Oldmeadows (Subdean) and Professor R Porter (exDean now resides in Townsville).**

H. **Failure to include non-compliance of Medical school in 1994/1995 to FOI**

ll the above are crucial information regarding my argument and registration.
Mr Dreyfus, by not including this information before the court, despite my repeated instructions has omitted information which strengthens my argument and weakens the gument of my opponents. He has also covered poor conduct and breech of "code of onduct" rules by the Medical Board of Queensland and Hospital.

y failing to do the above, Mr M Dreyfus has not acted in accordance with the Victorian Bar practice rules.

In particular:- *"Duty to Client" section.*

Rule 10 *"defending a client's rights and of protecting the client's liberty or life by the free and unfettered statement of every fact and the use of every argument and observation that can legitimately lead to that end according to the principles and practice of law. "*
Rule 11 *"A barrister must seek to advance and protect the client's interest to the best of the barrister's skill and diligence, uninfluenced....."*

Qu 3 Failed to include or subpoena the most relevant witnesses to strengthen my case (despite my instructions).

i) Mr Dreyfus failed to get Affidavits or subpoena the most relevant witnesses ie Appointed Registrars and consultants who assessed me.
These are:
Dr Aruna Munasingh
Dr Jim Holland
Dr Naada
Dr Huvsa
Dr Cu-Thai
Dr Kausak
Dr Raad Almedi

i) Other interns whom I worked with and helped numerous times throughout the year.
ii) Mr Dreyfus failed .to get Affidavits from Consultants, Registrars and Interns, whom I worked with at Frankston Hospital and who were appointed to assess.
iii) Mr Dreyfus refused to get an affidavit or subpoena Dr Yuen from the Medical Board of Queensland who began this process against me and reported grossly inaccurate information. (See Qu 1)

Qu 4. Burying information to minimise the strengths of my case

i) Refer to 3 as relevant witnesses
ii) Not pointing out and including the strengths of my argument. Refer to 1 and 2.
iii) Burying dated 29/08/03 by Dr P Keary Director of Clinical Training at Townsville hospital. The most important letter regarding the argument against me.

Qu 5. Changing the perspective of my case to the benefit of my opponents

Refer Qu 1, 2, 3.
Not pointing out 3 show cause notices ie 3 attempts at forming argument against me in 1 year
Allowing irrelevant witnesses before the court with inconsistent complaints of a very delayed nature (upto1year later).
Dr Neil Small (was in England at the time I worked in Emergency)
Dr P Lukas (I have never seen)
Dr K Gellhar (made complaints 1year after I left hospital about a patient she never saw)
Dr J Ashley (complaint based on inconsistent hearsay)
Dr W Frishman (addressed concern 1year after I left hospital)
Dr J Lukas (I have never spoken to)\
Mr Brian Pugh (Not a doctor, he is an Administrator, I had a brief conversation with him regarding my resignation)
Nurses whom I did not know and had minimal contact with.

Mr Dreyfus did not act in accordance with the Victorian Bar practice rules pursuant to part 2 "Duty to Client".

This has resulted in giving increasing weight to irrelevant witnesses against me, that should not have been relied on as evidence.

Qu 6. Allowing incorrect information before the Court.

i)Report of Dr Yuen from Medical Board of Queensland with gross inaccuracies used in show cause 1 dated June 11/03.
ii)Refer to complaint to Law Institute of Victoria.
iii)Refer to faxes sent regarding correction of complaints.
iv)Refer to faxes sent regarding Mr O'Dempsy's Affidavit (Executive Officer of Medical Board of Queensland).
v)Refer to preliminary hearing in Brisbane dated 29/3/03 before Judge White.

Qu 7 Expert Witnesses

1. *Dr Z Rosenblum*
Dr Rosenblum read all complaints against me and wrote in his handwriting his own view. We got this typed and he signed it (refer document). Mr Dreyfus then asked him to change this by giving him instructions x (refer to document). He then called him directly and told him to change from General Registration to conditional registration(refer to tape)

When Dr Rosenblum failed to do this, Mr. Dreyfus did not include Dr Rosenblum's opinion before the court despite my instructions.

2. *Professor Paddy Dewan*
After reviewing all material Dr Dewan wrote letter y (refer document). Mr Dreyfus did not include this before the Court despite my instructions (see Qu1) and instead sent him document y (refer). So once again to change argument against me.

Mr Dreyfus refused to place Dr A opinion of General Registration before the Court

- Refer to documents

His interference clearly states Mr Dreyfus tried to weaken my argument and create one for conditional registration rather than full registration which were my only instructions. This was done to cover up the grossly inaccurate decision made by the Medical Boards.

Qu 8. Without consent creating expert witnesses and giving them my opponents to be used against me.

My instructions to Mr Dreyfus over a 10 month period was to create an argument for General Registration

- Refer to documents

My instructions to him were to only use expert witnesses who were in my favour. That is an argument that I have successfully completed internship

- Refer to documents

Without my consent he used expert witness Professor Judson's report by giving it to my opponents without my consent. This report Mr Dreyfus charged me $5,000 and placed it before the Court despite my instructions. My opponents are using this report against my argument for General Registration.

- Refer to document

Qu 9. Failed to follow instructions or give instructions related to my medical insurance rights.

- Refer to Qu 1.

Qu 10.Allowing unnecessary delays.

Refer to summary 2 and in particular dates

This has allowed the Medical Board of Queensland to keep going back to the Hospital up to 1 year after I left to gather complaints against me, once determining the previous ones to be invalid.
This has also allowed procedural unfairness.

Qu 11.Failed to do application to have Judge Wall disqualified.

a) Despite instructions not to have a judge from Townsville. See Qu1. An argument in support of this was not given to Judge White from Brisbane during a preliminary hearing to decide on the Judge and venue.
   - Refer to Transcript (29/3/03)
b) Mr M Dreyfus admitted bias on behalf of having Judge Wall from Townsville hearing the case. From the moment Judge Wall was appointed Mr Dreyfus stated that I will not get General Registration as this Judge will protect the Medical Board of Queensland. Despite this he made no attempt to disqualify this judge despite my instructions.
c) Despite the fact that Dr Barry Hodgers one of the key witnesses admitted to knowing Judge Wall, Mr Dreyfus did not act to disqualify Judge Wall despite my instructions.

Qu11 Failed to do application to have Judge Wall disqualified

a) Despite instructions not to have a judge from Townsville. See Qu1. An argument in support of this was not given to Judge White from Brisbane during a preliminary hearing to decide on the Judge and venue. ( ) (refer to transcript).

b) Mr M Dreyfus admitted bias on behalf having Judge Wall from Townsville hearing the case. From the moment Judge Wall was appointed Mr Dreyfus stated that I will not get General Registration as this Judge will protect the Medical Board of Queensland. Despite this he made no attempt to disqualify this judge despite my instructions.

c) Despite the fact that Dr Barry Hodgers one of the key witnesses admitted to knowing Judge Wall, Mr Dreyfus did not act to disqualify Judge Wall despite my instructions.

Qu12 Terminated his services 1 week before the hearing dated 23/08/04

This is a breach of Rule 14 "Duty to client" of Victorian Bar Practice rules. Despite initial agreement that Mr Dreyfus agreed that he would be doing this case and forming an argument for general registration, he terminated his services 1 week before the hearing stating he will not put forth an argument for general registration in front of Judge Wall because Judge Wall will not have it.

He did not return the 10,000 deposit for the Court proceedings.
Refer to letter to Mr M Dreyfus at the time of his withdrawal.

Qu13 Underestimating the length of proceedings

Mr Mark Dreyfus placed only 5 days of hearing in front of Judge Wall despite knowing there would be 38 witnesses. This was a severe underestimation. Judge Wall was unable to extend his time beyond the 5 day hearing. As a result the hearing was adjourned for 6 months to be continued on 31/01/05. for 3 weeks.

Qu14 Without my knowledge met with members of the Victorian Medical Board

He would do this continuously over 10 month period. Mr Lou Mastandrea (Ph 03 9391 4493) during one of the meetings confronted Mr Dreyfus who admitted to doing this. His secretary admitted that members of the Medical Board of Victoria were coming into his office pressuring him to obstruct the case.

Mr Mark Dreyfus had conflict of interest in doing this as he was the Barrister the Medical Board used. (Refer to documents

Qu15 Threatened and pressured into signing documents to withdraw a complaint made to the Law Institute

Townsville Hospital

By not following instructions Mr Dreyfus has failed to act on poor conduct and breach of Resident Medical Officer state-award under which I was employed at Townsville Hospital.

- I worked up to 16 days continuosly up to 18 hours a day
- I worked at times 3 days in a row without leaving the hospital and being the only doctor in charge in the hospital regaurding the relevent units.
- The hospital sent an email by Dr. Julia Ashley well after I completed my internship which was based on false hearsay in which the Medical Board used to begin an investigation instead of giving me my general registration. The hospital Knew Dr.Ashley was not involved with patient care regaurding patients involved in the complaint.

The hospital at all times could have clarified the "false information" before sending it off to the Medical Board by checking Medical notes regaurding in particualar "the meningitis patient" which they used in later show cause notices.

Also refer Dr.P. Dewans letter pointing out poor conduct of the Medical Board of Queensland.

Medical Board of Queensland

By not following my instructions Mr. Dreyfus has failed to act on and include information regarding to breech of "code of conduct" by the Medical Board of Queensland.

In particular the Medical Board of Queensland has failed to comply to rule 2.4 "Diligence" section and rule 4.2 "independent Decision Making" section as set out in "code of conduct rules for Medical Board of Queensland. The following are examples of this.

(1) At the time of completion of Internship April 2003, I was appointed by Townsville Hospital as a second year doctor in which I accepted. A folder including references from supervising doctors and letters by appointed mentor and Deputy Director of Clinical Training, Dr.Barry Hodgers were sent to the Medical Board of Queensland with an application form for general registration (refer document). The Medical Board of Queensland ignored all this vital information by my supervising doctor and relied on inaccurate and unsubstantiated hearsay from Dr. Julia Ashley to begin an investigation regarding the complaint that was sent by her via email. Dr. Yuen from the Medical Board began an investigation 1 month after I completed my Internship and 3 days after I left the hospital and this resulted in show cause #1 dated 11/7/03.
Further Dr. Yuen from the Medical Board of Queensland began an investigation which occurred 15-16 May 2003. She reported back to the Medical Board of Queensland false information in particular regarding the 2 hearsay complaints that began the investigation. She did this despite easy access to information that would have clarified the "falsities.

She reported that- "Dr.Tsigounis saw a patient with meningitis in the emergency Dept. A lumber puncture was performed, the patient was given a dose of antibiotics and sent home. Dr.Tsigounis did not discuss the case with the registrar. The patient was later recalled when the L.P results indicated bacterial meningitis".
The patients notes and affidavit were later subpoenaed regarding this patient proves all aspects of her statement were false.

"A patient required a vaginal swab. A rectal swab was performed, then a vaginal swab using the same swab".
This was also false and based on inconsistent hearsay as proved on the first day of the hearing.

Reported "Frequent absences from work" This was contradicted by Dr.Hodgers report and "time sheets". I did not even take off 1 day during my Intern Training in Townsville.

"Dr. Tsigounis discontinued her Emergency Dept after 2 weeks".
This was also false. It was documented all along by the hospital I spent 3 ½ months in Emergency which was more than adequate.

This information was relied on by the MBOQ in their June 11th show cause notice to cancel my registration.
The Medical Board of Queensland instead of granting me General Registration bases on relevant information forwarded they began an investigation 1 month after I completed my Internship and 3 days after I left the hospital. This investigation began secondary to an email sent to them from Dr. Julia Ashley a doctor that was not my appointed supervisor . She stated she had concerns regarding 2 incidents that were never brought to my to my attention whilst I worked at Townsville Hospital. Her email to the Medical Board was based on inaccurate hearsay which she used to address her concerns. She had not seen any of these patients at the time of the alleged incidents.

Breech of section 2.5 "Economy and Efficiency" section of code of conduct rules that the Medical Board of Queensland needs to follow.

Mr. Dreyfus and the Board have allowed frustration of the legal system and abuse of use of public resources, by not following my instructions to act upon the above.

The MBOQ has used public resources so as to employ solicitors over a one year period in 2003/2004 to visit Townsville Hospital and come up with complaints using direct solicitation. This included approaching any staff of Townsville Hospital who may have contact with me during my employment there up to 1 year later.

This form of collection of complaints occurred before and after each show cause notice and especially when allegations in previous attempts by the Medical Board of Queensland were unsubstantiated no longer be used against me.
In particular Dr.P Keary's letter dated 29/8/03 in response to Medical Board of Queensland letter dated 19/08/03, which states allegations in show cause #1 were unsubstantiated. This should have ended my registration issues. Instead the Medical of Queensland sent solicitors to Townsville Hospital to obtain more complaints by direct solicitation.

The MBOQ have breeched "Accountability to the public" rules section 4.3 in that "the Boards obligation to observe the rules of natural justice in decision making processes. The rules of natural are essentially about procedural fairness.

- A summary of relevant dates and letters forwarded which support this.
- Show cause #1 dated 11/June/03 and response dated 18/8/03 also included.

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The Medical Board of Queensland instead of granting me General Registration bases on relevant information forwarded they began an investigation 1 month after I completed my Internship and 3 days after I left the hospital. This investigation began secondary to an email sent to them from Dr. Julia Ashley a doctor that was not my appointed supervisor . She stated she had concerns regarding 2 incidents that were never brought to my to my attention whilst I worked at Townsville Hospital. Her email to the Medical Board was based on inaccurate hearsay which she used to address her concerns. She had not seen any of these patients at the time of the alleged incidents.

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This was also false. It was documented all along by the hospital I spent 3 ½ months in Emergency which was more than adequate.

TOWNSVILLE HEALTH SERVICE DISTRICT

Queensland Government

Queensland Health

RECEIVED
14 AUG 2003
OFFICE OF
HEALTH PRACTITIONER REGISTRATION BOARDS

Enquiries to: Medical Administration
Telephone: 07 4796 1059
Facsimile: 07 4796 1051
File Number:
Our Ref: BH:mp
Your Ref:

TO WHOM IT MAY CONCERN

Dr Tsigounis was employed as an Intern at The Townsville Hospital from 11 June 2002 for the remainder of the 2002 medical year which concluded on 12 January 2003. She has been offered, and accepted, re-appointment for the 2003 medical year.

The terms she completed are as per the copy of the Internship report attached.

Dr Tsigounis's performance has been considered satisfactory in all respects. Copies of her term reports are available on request.

Yours sincerely

Dr Barry Hodges
Deputy Director of Medical Services
The Townsville Hospital
29 January 2003

Office
Deputy Director of Medical Services
The Townsville Hospital
100 Angus Smith Drive, Douglas Q 4811

Postal
PO Box 670
Townsville Q 4810

Telephone
07 4796 1059

Facsimile
07 4796 1051

Medical Board of Queensland

INTERNSHIP REPORT *(Section 92 Medical Practitioners Registration Act 2001)*

Name: HELEN TSIGOUNIS Hospital: TOWNSVILLE

Date of Appointment: ..... Date of Completion: 12/01/03

These four columns to be completed during internship | These three columns to be completed by the Director of Clinical Training at end of service

Department/Specialty	Start Date	End Date	No of Weeks	Satisfactory (S)/ Unsatisfactory (U)	Allocation: Medicine or Surgery/Emergency Medicine	Comments
Med One, Medicine.	11/6/02	14/07/02	5	S		
Psych / Med	15/07/02	13/10/02	13	S		
Emergency Med.	14/10/02	12/01/03	11	S		

I certify that the abovementioned Doctor has served as an intern in the ..... Hospital for a period or periods amounting in the aggregate to 52 weeks and has obtained the [illegible]

Director of Clinical Trai[illegible]

19/12/02
Date

THIS FORM IS TO BE RETURNED WITHIN 14 DAYS OF RECEIPT OF NOTICE FROM THE MEDICAL BOARD

42

INTERN ASSESSMENT FORM

This form reflects the objectives of the intern year and is a tool to assess the interns on their professional performance. Guidelines for completing the form are outlined in **The Intern Training Manual, Section B. 9.1.** Please forward completed and signed full-term assessment form to the Director of Clinical Training at the end of term.

Intern : Helen TSIGOUNIS.

Year 2002 Term ☐ 1 ☐ 2 ☐ 3 ☒ 4 **Unit :** Paediatrics

Unit educational coordinator : Ian Skelton

Is the intern progressing satisfactorily towards full registration? Yes ☑ No ☐ Uncertain ☐

Comment on any strengths/weaknesses of the intern :

- Good relationships with parents / staff.
- Interested in academic and medical aspects of paediatrics
- Prepared to learn more. Self confident.

Has this assessment been discussed with the intern? Yes ☑ No ☐

Signed by unit educational coordinator : [signature]

Date : 22/10/02

Comments on assessment by intern

Completed form signed by intern : [signature]

Date : 22/10/02

43

Categories for performance grades are based on the recommended level of competence at the end of the term

1	Requires substantial assistance - needs extensive supervision and guidance	5.	Good
2	Requires some assistance - supervision of this skill is needed in most areas	6.	Very Good
3	Just adequate	7.	Exceptional
4	satisfactory	N/A	Not applicable
		U/C	Unable to comment

PLEASE RATE THE INTERN ON THE FOLLOWING	1	2	3	4	5	6	7	N/A U/C
KNOWLEDGE								
Sound grasp of facts, theories and concepts in clinical settings					✓			
Knowledge of preventative care issues					✓			
Knowledge of medico-legal principles (including informed consent)								N/A
Awareness of administrative aspects of health care								N/A
Awareness of costs of patient management					✓			
SKILLS								
History taking (nature and implications of symptoms)					✓			
Physical examination (nature and implications of signs)					✓			
Manual dexterity relevant to procedural skills					✓			
Differential diagnosis					✓			
Maintaining records and other written communications					✓			
Ordering tests and investigations					✓			
Effective prescribing and dosage of medication					✓			
Effective communication with patients and their families					✓			
Outlining to patients the risks, discomfort and inconvenience of therapies proposed					✓			
Taking appropriate health precautions					✓			
Clinical judgement					✓			
Working as an effective team member					✓			
PROFESSIONAL ATTRIBUTES								
Awareness of own strengths/limitations and consulting appropriately					✓			
A caring and supportive attitude to patients						✓		
Appreciation of family, social and cultural influences on health						✓		
Application of ethical principles					✓			
Enthusiasm and initiative					✓			
Reliability, dependability and efficiency					✓			

COMMENTS

OVERALL PERFORMANCE

(please tick one) : ☐ Not up to required standard ☐ Satisfactory ☑ Good to excellent

INTERN ASSESSMENT FORM

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Intern : Helen Tsigounis

Year 2001 Term ☐ 1 ☐ 2 ☐ 3 ☒ 4 **Unit :** C+M1 + Renal for 3 weeks

Unit educational coordinator :

Is the intern progressing satisfactorily towards full registration? Yes ☑ No ☐ Uncertain ☐

Comment on any strengths/weaknesses of the intern :

Hard working ; keen to learn

Has this assessment been discussed with the intern? Yes ☑ No ☐

Signed by unit educational coordinator : Nadia Alwawi (Medical Registra

Date : 17 / 10 / 02

Comments on assessment by intern

Completed form signed by intern :

Date : 17/10/02

Categories for performance grades are based on the recommended level of competence at the end of the term

1	Requires substantial assistance - needs extensive supervision and guidance	5.	Good
2	Requires some assistance - supervision of this skill is needed in most areas	6.	Very Good
3	Just adequate	7.	Exceptional
4.	satisfactory	N/A	Not applicable
		U/C	Unable to comment

PLEASE RATE THE INTERN ON THE FOLLOWING	1	2	3	4	5	6	7	N/A U/C
KNOWLEDGE								
Sound grasp of facts, theories and concepts in clinical settings						✓		
Knowledge of preventative care issues						✓		
Knowledge of medico-legal principles (including informed consent)						✓		
Awareness of administrative aspects of health care						✓		
Awareness of costs of patient management						✓		
SKILLS								
History taking (nature and implications of symptoms)					✓			
Physical examination (nature and implications of signs)					✓			
Manual dexterity relevant to procedural skills					✓			
Differential diagnosis					✓			
Maintaining records and other written communications				✓				
Ordering tests and investigations					✓			
Effective prescribing and dosage of medication					✓			
Effective communication with patients and their families								
Outlining to patients the risks, discomfort and inconvenience of therapies proposed				✓				
Taking appropriate health precautions				✓				
Clinical judgement					✓			
Working as an effective team member					✓			
PROFESSIONAL ATTRIBUTES								
Awareness of own strengths/limitations and consulting appropriately					✓			
A caring and supportive attitude to patients					✓			
Appreciation of family, social and cultural influences on health					✓			
Application of ethical principles					✓			
Enthusiasm and initiative					✓			
Reliability, dependability and efficiency				✓		✓		

COMMENTS

Hard worker with very good Medical knowledge

OVERALL PERFORMANCE

(please tick one) : ☐ Not up to required standard ☑ Satisfactory ☐ Good to excellent

6275

(E1)

INTERN ASSESSMENT FORM

Please complete both sides of this form.

This form reflects the objectives of the intern year and is a tool to assess the interns on their professional performance. Guidelines for completing the form are outlined in *The Intern Training Manual, Section B. 9.1.*
Please discuss your assessment with the Intern and forward the completed and signed form to Lynne Raw, Medical Education Officer, Postgraduate Medical Education Unit, by the end of term. Contact Lynne on Ext 1226 with any queries.

Intern : HELEN TSIGOURNIS

Year 2002 Term ☐ 1 ☐ 2 ☒ 3 ☐ 4 | Unit : EMERGENCY DEPT

Unit educational coordinator :

Comment on any strengths/weaknesses of the Intern :

Exceptionally good and mature in clinical problem solving. Can remember most of the details about patients well. Very good in Organising facts and presenting.

Has this assessment been discussed with the Intern? Yes ☑ No ☐

Person completing this form:

Name (please print): Aruna Munasinghe Signature: [signature] Position: Registrar (Medical)

Signed by Consultant/Dept Head/Unit Educational Coordinator : _____

Date : 18/12/02

Comments on assessment by Intern

Completed form signed by Intern : [signature]

Date : 18/12/02

023

A 1309

Ratings of performance are based on the recommended level of competence at the end of the term

1	Requires substantial assistance + needs extensive supervision and guidance	5	Good
2	Requires some assistance + supervision of this skill is needed in most areas	6	Very Good
3	Just adequate	7	Exceptional
4	Unsatisfactory	N/A	Not applicable
		U/C	Unable to comment

PLEASE RATE THE INTERN ON THE FOLLOWING	1	2	3	4	5	6	7	N/A U/C
KNOWLEDGE								
Sound grasp of facts, theories and concepts in clinical settings						[redacted]	✓	
Knowledge of preventative care issues						✓		
Knowledge of medico-legal principles (including informed consent)						✓		
Awareness of administrative aspects of health care						✓		
Awareness of costs of patient management						✓		
SKILLS								
History taking (nature and implications of symptoms)						✓		
Physical examination (nature and implications of signs)							✓	
Manual dexterity relevant to procedural skills								
Differential diagnosis						✓		
Maintaining records and other written communications						✓		
Ordering tests and investigations						✓		
Effective prescribing and dosage of medication						✓		
Effective communication with patients and their families						✓		
Outlining to patients the risks, discomfort and inconvenience of therapies proposed						✓		
Taking appropriate health precautions						✓		
Clinical judgement							✓	
Working as an effective team member						✓		
PROFESSIONAL ATTRIBUTES								
Awareness of own strengths/limitations and consulting appropriately						✓		
A caring and supportive attitude to patients						✓		
Appreciation of family, social and cultural influences on health						✓		
Application of ethical principles						✓		
Enthusiasm and initiative							✓	
Reliability, dependability and efficiency							✓	

COMMENTS - Exceptionally good in application of Basic principles of medicine in diagnosis. Also, has a very good memory about patients and their problems.

OVERALL PERFORMANCE

(please tick one) : ☐ Not up to required standard ☐ Satisfactory ☑ Good to excellent

330
2.19

9

INTERN ASSESSMENT FORM

Please complete both sides of this form.

This form reflects the objectives of the intern year and is a tool to assess the intern on their professional performance. Guidelines for completing the form are outlined in *The Intern Training Manual, Section E, 9.1.*
Please discuss your assessment with the Intern and forward the completed and signed form to Lynne Rae, Medical Education Officer & Postgraduate Medical Education Unit, by the end of term. Contact Lynne on Ext 1220 with any queries.

Intern: Helen Tsigounis

Year 2002 Term ☐ 1 ☐ 2 ☐ 3 ☐ 4 | Unit: Emergency Dept.

Unit educational coordinator:

Comment on any strengths/weaknesses of the Intern:

Very thorough, dealt w/ very stressful situations in a calm manner. Great patient skills. Was a pleasure to have in the department.

Has this assessment been discussed with the Intern? Yes ✓ No —

Person completing this form:

Name (please print): Andrew Coley Signature: [signature] Position: ED CONSULTANT

Signed by Consultant/Dept Head/Unit Educational Coordinator:

Date: 16-12-02

Comments on assessment by Intern

Completed form signed by Intern: [signature]

Date: 16-12-02

10

1 Requires substantial assistance - needs extensive supervision and guidance

2 Requires some assistance - supervision of the skill is needed in most areas

3 Just adequate

4 satisfactory

5 Good

6 Very Good

7 Exceptional

N/A Not applicable

U/C Unable to comment

PLEASE RATE THE INTERN ON THE FOLLOWING:	1	2	3	4	5	6	7	N/A U/C
KNOWLEDGE								
Sound grasp of facts, theories and concepts in clinical settings							✓	
Knowledge of preventative care issues							✓	
Knowledge of medico-legal principles (including informed consent)						✓		
Awareness of administrative aspects of health care					✓			
Awareness of costs of patient management					✓			
SKILLS								
History taking (nature and implications of symptoms)							✓	
Physical examination (nature and implications of signs)						✓		
Manual dexterity relevant to procedural skills						✓		
Differential diagnosis						✓		
Maintaining records and other written communications							✓	
Ordering tests and investigations							✓	
Effective prescribing and dosage of medication						✓		
Effective communication with patients and their families							✓	
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PROFESSIONAL ATTRIBUTES								
Awareness of own strengths/limitations and consulting appropriately							✓	
A caring and supportive attitude to patients							✓	
Appreciation of family, social and cultural influences on health							✓	
Application of ethical principles							✓	
Enthusiasm and initiative							✓	
Reliability, dependability and efficiency							✓	

COMMENTS

ENJOYED WORKING W/ HELEN STRONG CLINICAL SKILLS!

OVERALL PERFORMANCE

(please tick one): — Not up to required standard — Satisfactory ✓ Good to excellent

INTERN ASSESSMENT FORM

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Intern : Helen Tsigonis

Year 2002 Term ☐ 1 ☐ 2 ☐ 3 ☑ 4 | Unit : EMERGENCY DEPARTMENT

Unit educational coordinator :

Comment on any strengths/weaknesses of the Intern :

Efficient use of time & is keen to ask lots of questions — likes to understand processes and have reasons for doing what we do. Confident to impart learned skills to medical students

Has this assessment been discussed with the Intern? Yes ☐ No ☐

Person completing this form:

Name (please print): JIM HOLLAND Signature: [signature] Position: REGISTRAR ED

Signed by Consultant/Dept Head/Unit Educational Coordinator : [signature]

Date : 18/12/02

Comments on assessment by Intern

Completed form signed by Intern : [signature]

Date : 18-12-02

Categories for performance grades are based on the recommended level of competence at the end of the term

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2. Requires some assistance - supervision of this skill is needed in most areas
3. Just adequate
4. satisfactory
5. Good
6. Very Good
7. Exceptional

N/A Not applicable
U/C Unable to comment

PLEASE RATE THE INTERN ON THE FOLLOWING	1	2	3	4	5	6	7	N/A U/C
KNOWLEDGE								
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Knowledge of preventative care issues					✓			
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Appreciation of family, social and cultural influences on health						✓		
Application of ethical principles						✓		
Enthusiasm and initiative						✓		
Reliability, dependability and efficiency						✓		

COMMENTS - Helen is v. enthusiastic about her job and always shows interest in knowing more.

OVERALL PERFORMANCE

(please tick one): ☐ Not up to required standard ☐ Satisfactory ☑ Good to excellent

124

INTERN ASSESSMENT FORM

This form reflects the objectives of the intern year and is a tool to assess the interns on their professional performance. Guidelines for completing the form are outlined in **The Intern Training Manual, Section B. 9.1.** Please forward completed and signed full-term assessment form to the Director of Clinical Training at the end of term.

Intern :

Year 2001 Term ☐ 1 ☐ 2 ☐ 3 ☒ 4 **Unit :** Vascular Surgery (2 weeks) 2002

Unit educational coordinator :

Is the intern progressing satisfactorily towards full registration? Yes ☑ No ☐ Uncertain ☐

Comment on any strengths/weaknesses of the intern :

Having spent only two weeks in Vascular Surgery, it may be unfair to properly asses Helen's interest and performance in Surgery in General. By the time her assignment was ending she was clearly able to handle her duties well and carry her responsibilities as required.

Has this assessment been discussed with the intern? Yes ☐ No ☑

Signed by unit educational coordinator : [signature]

Date : 17-12-02 Dr. RAAD ALMEHDI

Comments on assessment by intern

Completed form signed by intern : [signature] 17/12/02

Date :

323
3.12

A 1303

Categories for performance grades are based on the recommended level of competence at the end of the term

1	Requires substantial assistance - needs extensive supervision and guidance	5.	Good
2.	Requires some assistance - supervision of this skill is needed in most areas	6.	Very Good
3	Just adequate	7.	Exceptional
4	satisfactory	N/A	Not applicable
		U/C	Unable to comment

PLEASE RATE THE INTERN ON THE FOLLOWING	1	2	3	4	5	6	7	N/A U/C
KNOWLEDGE								
Sound grasp of facts, theories and concepts in clinical settings				✓				
Knowledge of preventative care issues				✓				
Knowledge of medico-legal principles (including informed consent)				✓				
Awareness of administrative aspects of health care				✓				
Awareness of costs of patient management				✓				
SKILLS								
History taking (nature and implications of symptoms)					✓			
Physical examination (nature and implications of signs)					✓			
Manual dexterity relevant to procedural skills				✓				
Differential diagnosis				✓				
Maintaining records and other written communications				✓				
Ordering tests and investigations				✓				
Effective prescribing and dosage of medication				✓				
Effective communication with patients and their families				✓				
Outlining to patients the risks, discomfort and inconvenience of therapies proposed				✓				
Taking appropriate health precautions				✓				
Clinical judgement				✓				
Working as an effective team member				✓				
PROFESSIONAL ATTRIBUTES								
Awareness of own strengths/limitations and consulting appropriately					✓			
A caring and supportive attitude to patients					✓			
Appreciation of family, social and cultural influences on health					✓			
Application of ethical principles					✓			
Enthusiasm and initiative					✓			
Reliability, dependability and efficiency				✓				

COMMENTS

Helen spent only two weeks (total) in the sub-specialties of Vascular Surgery. This is not quite enough to make a fair judgement. However general surgical skill + interest. She was quite keen on learning, which is a bonus for her future career.

OVERALL PERFORMANCE

(please tick one) : ☐ Not up to required standard ☑ Satisfactory ☐ Good to excellent

024
3.13

Surg.

TOWNSVILLE GENERAL HOSPITAL

RESIDENT MEDICAL OFFICERS ASSESSMENT FORM

NAME : Helen Tsigounis.

STATUS : (JHO) SHO PHO/REG

YEAR 2003 TERM 1 ☒ 2 ☐ 3 ☐ 4 ☐ UNIT: General Surgical / VR 31/3/03 → 11/4/03

1. CLINICAL SKILLS								
History taking, Examination, Management Plans, Use of Investigations, Procedural Skills.	7	(6)	5	4	3	2	1	N/A
2. RECORD KEEPING								
Admissions, Continuation Notes, Discharge Summaries - Content, Legibility, Timeliness	7	(6)	5	4	3	2	1	N/A
3. RELATIONSHIPS WITH OTHERS								
Patients, Relatives, Supervisors and other Staff	7	6	(5)	4	3	2	1	N/A
4. PERSONAL SKILLS								
Reliability, Punctuality, Use of appropriate Initiative, Enthusiasm	7	6	(5)	4	3	2	1	N/A
5. TEACHING & ACADEMIC KNOWLEDGE								
Core Knowledge, Self-oriented Learning, teaching Session Participation, Teaching of Other Staff.	(7)	6	5	4	3	2	1	N/A
6. OVERALL TERM PERFORMANCE		✓						

PLEASE TICK SELECTED RESPONSE

Categories for performance grades are based on the recommended level of competence at the end of the term.

7	=	Outstanding performance
6	=	Very good performance
3 -5	=	Average performance
2	=	Poor performance
1	=	Unsatisfactory performance
N/A	=	Sufficient exposure to adequately assess

PLEASE COMPLETE REVERSE SIDE.../-

109

15

ASSESSORS COMMENTS :

Highly recommended resident

ASSESSOR'S NAME : Cu Tai W.
(Block letters please)

Signature : _____

Date : 17/4/03.

RESIDENT MEDICAL OFFICER'S COMMENTS :

I have had this assessment discussed with me by Dr Cu Tai

_____
(Signature)

PLEASE RETURN COMPLETED FORM TO POSTGRADUATE MEDICAL EDUCATION UNIT

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INTERN ASSESSMENT FORM

This form reflects the objectives of the intern year and is a tool to assess the interns on their professional performance. Guidelines for completing the form are outlined in **The Intern Training Manual, Section B: 9.1.** Please forward completed and signed full-term assessment form to the Director of Clinical Training at the end of term.

Intern : Helen Tsiavos

Year 2001 Term ☐ 1 ☐ 2 ☐ 3 ☒ 4 **Unit :** Orthopedics (Alfred)

Unit educational coordinator : Kaesler - Hoogenraad

Is the intern progressing satisfactorily towards full registration? Yes ☑ No ☐ Uncertain ☐

Comment on any strengths/weaknesses of the intern :
Hardworking, Competent intern

Has this assessment been discussed with the intern? Yes ☑ No ☐

Signed by unit educational coordinator : Hoogenraad

Date : 28/3/03

Comments on assessment by intern

Completed form signed by intern : _____

Date : _____

Categories for performance grades are based on the recommended level of competence at the end of the term

1. Requires substantial assistance - needs extensive supervision and guidance
2. Requires some assistance - supervision of this skill is needed in most areas
3. Just adequate
4. satisfactory
5. Good
6. Very Good
7. Exceptional

N/A Not applicable
U/C Unable to comment

PLEASE RATE THE INTERN ON THE FOLLOWING	1	2	3	4	5	6	7	N/A U/C
KNOWLEDGE								
Sound grasp of facts, theories and concepts in clinical settings								
Knowledge of preventative care issues					✓	✓		
Knowledge of medico-legal principles (including informed consent)						✓		
Awareness of administrative aspects of health care						✓		
Awareness of costs of patient management						✓		
SKILLS								N/A
History taking (nature and implications of symptoms)								
Physical examination (nature and implications of signs)						✓		
Manual dexterity relevant to procedural skills						✓		
Differential diagnosis					✓			
Maintaining records and other written communications					✓			
Ordering tests and investigations					✓			
Effective prescribing and dosage of medication					✓			
Effective communication with patients and their families					✓			
Outlining to patients the risks, discomfort and inconvenience of therapies proposed						✓		
Taking appropriate health precautions						✓		
Clinical judgement						✓		
Working as an effective team member						✓		
PROFESSIONAL ATTRIBUTES								
Awareness of own strengths/limitations and consulting appropriately					✓			
A caring and supportive attitude to patients					✓	✓		
Appreciation of family, social and cultural influences on health						✓		
Application of ethical principles						✓		
Enthusiasm and initiative						✓		
Reliability, dependability and efficiency						✓		

COMMENTS - will do well

OVERALL PERFORMANCE

(please tick one) : ☐ Not up to required standard ☐ Satisfactory ☐ Good to excellent

9

INTERN ASSESSMENT FORM

This form reflects the objectives of the intern year and is a tool to assess the interns on their professional performance. Guidelines for completing the form are outlined in **The Intern Training Manual, Section B. 9.1.** Please forward completed and signed full-term assessment form to the Director of Clinical Training at the end of term.

Intern: Helen Tsigounis

Year 2001 Term ☐ 1 ☐ 2 ☐ 3 ☒ 4 **Unit:** ENT - Surgical

Unit educational coordinator:

Is the intern progressing satisfactorily towards full registration? Yes ☑ No ☐ Uncertain ☐

Comment on any strengths/weaknesses of the intern:

- interested in her jobs in ENT department.
- good communicator
- adequate knowledge.

Has this assessment been discussed with the intern? Yes ☑ No ☐

Signed by unit educational coordinator: Helen Tsigounis.

Date: 06/03/03

Comments on assessment by intern

Completed form signed by intern: [signature]

Date: 6/3/03

10

Categories for performance grades are based on the recommended level of competence at the end of the term

1. Requires substantial assistance - needs extensive supervision and guidance
2. Requires some assistance - supervision of this skill is needed in most areas
3. Just adequate
4. satisfactory
5. Good
6. Very Good
7. Exceptional

N/A Not applicable
U/C Unable to comment

PLEASE RATE THE INTERN ON THE FOLLOWING	1	2	3	4	5	6	7	N/A U/C
KNOWLEDGE								
Sound grasp of facts, theories and concepts in clinical settings					✓			
Knowledge of preventative care issues					✓			
Knowledge of medico-legal principles (including informed consent)					✓			
Awareness of administrative aspects of health care					✓			
Awareness of costs of patient management								✓
SKILLS								
History taking (nature and implications of symptoms)						✓		
Physical examination (nature and implications of signs)						✓		
Manual dexterity relevant to procedural skills						✓		
Differential diagnosis						✓		
Maintaining records and other written communications						✓		
Ordering tests and investigations						✓		
Effective prescribing and dosage of medication						✓		
Effective communication with patients and their families						✓		
Outlining to patients the risks, discomfort and inconvenience of therapies proposed						✓		
Taking appropriate health precautions						✓		
Clinical judgement						✓		
Working as an effective team member						✓		
PROFESSIONAL ATTRIBUTES								
Awareness of own strengths/limitations and consulting appropriately						✓		
Caring and supportive attitude to patients						✓		
Appreciation of family, social and cultural influences on health						✓		
Application of ethical principles						✓		
Enthusiasm and initiative						✓		
Reliability, dependability and efficiency						✓		

COMMENTS - Helen is v. enthusiatic about her job and always shows interest in knowing more.

OVERALL PERFORMANCE

(please tick one) : ☐ Not up to required standard ☐ Satisfactory ☑ Good to excellent

INTERN ASSESSMENT FORM

This form reflects the objectives of the intern year and is a tool to assess the interns on their professional performance. Guidelines for completing the form are outlined in **The Intern Training Manual, Section B. 9.1.** Please forward completed and signed full-term assessment form to the Director of Clinical Training at the end of term.

Intern : Helen Tsiaounis

Year 2001 Term ☐ 1 ☐ 2 ☐ 3 ☒ 4 | **Unit :** Emergency Medicine. ≈10 weeks.

Unit educational coordinator :

Is the intern progressing satisfactorily towards full registration? Yes ☑ No ☐ Uncertain ☐

Comment on any strengths/weaknesses of the intern :

Pleasant manner toward staff/patients
Seems adequate knowledge base
for level of training.

Has this assessment been discussed with the intern? Yes ☑ No ☐

Signed by unit educational coordinator : Julia AJ Klein

Date : December 18th 2002

Comments on assessment by intern

Completed form signed by intern : HT.

Date : 18/12/02

Categories for performance grades are based on the recommended level of competence at the end of the term

1.	Requires substantial assistance - needs extensive supervision and guidance	5.	Good
2.	Requires some assistance - supervision of this skill is needed in most areas	6.	Very Good
3.	Just adequate	7.	Exceptional
4.	satisfactory	N/A	Not applicable
		U/C	Unable to comment

PLEASE RATE THE INTERN ON THE FOLLOWING	1	2	3	4	5	6	7	N/A U/C
KNOWLEDGE								
Sound grasp of facts, theories and concepts in clinical settings				✓				
Knowledge of preventative care issues			N/A					
Knowledge of medico-legal principles (including informed consent)				✓				
Awareness of administrative aspects of health care			N/A					
Awareness of costs of patient management			N/A					
SKILLS								
History taking (nature and implications of symptoms)				✓				
Physical examination (nature and implications of signs)				✓				
Manual dexterity relevant to procedural skills				✓				
Differential diagnosis				✓				
Maintaining records and other written communications				✓				
Ordering tests and investigations				✓				
Effective prescribing and dosage of medication				✓				
Effective communication with patients and their families				✓				
Outlining to patients the risks, discomfort and inconvenience of therapies proposed				✓				
Taking appropriate health precautions				✓				
Clinical judgement				✓				
Working as an effective team member				✓				
PROFESSIONAL ATTRIBUTES								
Awareness of own strengths/limitations and consulting appropriately				✓				
A caring and supportive attitude to patients				✓				
Appreciation of family, social and cultural influences on health				✓				
Application of ethical principles				✓				
Enthusiasm and initiative				✓				
Reliability, dependability and efficiency				✓				

COMMENTS - Yves needs Rord adequate performance for level of training, improved during rotation.

OVERALL PERFORMANCE

(please tick one) : ☐ Not up to required standard ☑ Satisfactory ☐ Good to excellent

'BAJHI'

20

Dr HELEN TSIGOUNIS

WORK PROGRESS REPORT

FAXED 20.1.03

From 01 / 12 / 02 to 31 / 12 / 02

) be completed and forwarded to the Health Assessment and Monitoring Unit of the Medical Board of ueensland.

EPORT BY: DR BARRY HODGES /DEPUTY DIRECTOR OF MEDICAL SERVICES

OSITION:

'E OF HOSPITAL: THE TOWNSVILLE HOSPITAL

Please indicate your assessment of Dr Tsigounis's apparent coping and progress, in terms of the ollowing:

Behaviour/Mood	☑ Satisfactory	☐ Unsatisfactory
Sick Leave Nil in 6/12	☑ Satisfactory	☐ Excessive
Punctuality	☑ Satisfactory	☐ Unsatisfactory
Time Management	☑ Satisfactory	☐ Unsatisfactory
Ability	☑ Satisfactory	☐ Unsatisfactory
Responsibility	☑ Satisfactory	☐ Unsatisfactory
Interaction with staff & patients	☑ Satisfactory	☐ Unsatisfactory

nments:
APPEARS TO BE FUNCTIONING WELL AT THE LEVEL OF AN INTERN. SHE HAS COMPLETED HER 6/12 INTERNSHIP SATISFACTORILY AND I WOULD RECOMMEND REGISTRATION.

Please give an indication of Dr Tsigounis's workload, including whether she is required to work on call or night shift.

She is on the junior RMO roster in the ED, as an intern. This is a rolling, continuous roster ie morning, afternoon and night shifts. Interns are supervised continuously. She shoulders the normal work-load of an intern.

Do you have any concerns with Dr Tsigounis's clinical practice? If so, please provide details.

NO.

052
4.4

you Dr Tsigounis's immediate supervisor? If not, please advise the name of Dr Tsigounis's immediate supervisor, his/her position, and details regarding any discussion you may have had with that person regarding Dr Tsigounis.

NO. DR ANDREW COLEY, LOCUM LED CONSULTANT.
HE HAS GIVEN ME A POSITIVE REPORT ON HER PERFORMANCE GENERALLY.

If you are Dr Tsigounis's immediate supervisor, please advise the following:

(a) How often do you have personal contact with Dr Tsigounis?

☐ Daily ☐ Weekly ☐ Monthly ☐ Other (please provide details)

(b) Have you met with Dr Tsigounis since your last report, to discuss progress and/or any workplace issues?

☐ Yes ☐ No

Details:

ve/have not (circle as appropriate) discussed the above comments with Dr Tsigounis.

Signature: .....

Date: 20/01/03

Please return to:

Marlene Paterson
Health Assessment and Monitoring Unit
Medical Board of Queensland
GPO Box 2438
BRISBANE QLD 4001

FAX: 3247 3267

Dr HELEN TSIGOUNIS
WORK PROGRESS REPORT
From 01/03/03 to 31/03/03

To be completed and forwarded to the Health Assessment and Monitoring Unit of the Medical Board of Queensland.

REPORT BY: ASSOC/PROF. PETER KEARY
POSITION: Director of Clinical Training
NAME OF HOSPITAL: THE TOWNSVILLE HOSPITAL

Please indicate your assessment of Dr Tsigounis's apparent coping and progress, in terms of the following:

Behaviour/Mood	☑ Satisfactory	☐ Unsatisfactory
Sick Leave	☑ Satisfactory	☐ Excessive
Punctuality	☑ Satisfactory	☐ Unsatisfactory
Time Management	☑ Satisfactory	☐ Unsatisfactory
Ability	☑ Satisfactory	☐ Unsatisfactory
Responsibility	☑ Satisfactory	☐ Unsatisfactory
Interaction with staff & patients	☑ Satisfactory	☐ Unsatisfactory

Comments:
Comments from surgical supervisors suggest room for improvement but note considered the trainee fair.

Please give an indication of Dr Tsigounis's workload, including whether she is required to work on call or night shift.
All surgical work loads in TTH are heavy. Did have some night and W/E work.

Do you have any concerns with Dr Tsigounis's clinical practice? If so, please provide details.
There have been some concerns. (Dale endorsed complaint and my reply). All formal term assessments have been satisfactory

RMC 24/2/03
HAMC 14/3/03
MB .....

14/03/03

RECEIVED
17 MAR 2003
HAM Unit

Dr HELEN TSIGOUNIS
WORK PROGRESS REPORT

From 01/01/03 to 28/02/03 (2 months of surgery)

To be completed and forwarded to the Health Assessment and Monitoring Unit of the Medical Board of Queensland.

REPORT BY: DR BARRY HODGES
POSITION: DEPUTY DIRECTOR OF MEDICAL SERVICES
NAME OF HOSPITAL: THE TOWNSVILLE HOSPITAL

Please indicate your assessment of Dr Tsigounis's apparent coping and progress, in terms of the following:

Behaviour/Mood	☑ Satisfactory	☐ Unsatisfactory
Sick Leave	☑ Satisfactory (NIL)	☐ Excessive
Punctuality	☑ Satisfactory	☐ Unsatisfactory
Time Management	☑ Satisfactory	☐ Unsatisfactory
Ability	☑ Satisfactory	☐ Unsatisfactory
Responsibility	☑ Satisfactory	☐ Unsatisfactory
Interaction with staff & patients	☑ Satisfactory	☐ Unsatisfactory

Comments:

Please give an indication of Dr Tsigounis's workload, including whether she is required to work on call or night shift.

During the past 2½ Dr Tsigounis has been rostered to surgical wards, surgical ward call (evenings) and one block of 4 nights. She has completed these duties satisfactorily coping with the standard work load expected of her intern.

Do you have any concerns with Dr Tsigounis's clinical practice? If so, please provide details.

Satisfactory performance

No problem at this point with regard to surgery

Dr Tsigounis's immediate supervisor? If not, please advise the name of Dr Tsigounis's immediate supervisor, his/her position, and details regarding any discussion you may have had with that person regarding Dr Tsigounis. I have taken the role of supervising her for the period 13/01/03 to most because of the nature of this term I have restricted her to surgical rotations in which she rotates from unit to unit, meaning holiday and other relief I communicate regularly with the registrars to whom she is responsible

If you are Dr Tsigounis's immediate supervisor, please advise the following:

(a) How often do you have personal contact with Dr Tsigounis?

☐ Daily ☑ Weekly ☐ Monthly ☐ Other (please provide details)

(b) Have you met with Dr Tsigounis since your last report, to discuss progress and/or any workplace issues?

☑ Yes ☐ No

Details: Regular meetings as per (a) above

I have/have not (circle as appropriate) discussed the above comments with Dr Tsigounis.

Signature:

Date: 14/03/03

Please return to:

Marlene Paterson
Health Assessment and Monitoring Unit
Medical Board of Queensland
GPO Box 2438
BRISBANE QLD 4001

FAX: 3247 3257

DR. JOHN SHAND
M.B., B.S., F.R.A.N.Z.C.P.
D.P.M. (SYDNEY)
A.B.N. 69 547 698 364

Tel: 9369 5034
Fax: 9389 2093

61 3 9670 0138

26 SUITE 404
3 WAVERLEY STREET
BONDI JUNCTION

PO BOX 1479
BONDI JUNCTION 1355

7 February 2003

TO WHOM IT MAY CONCERN

RE: Dr Helen Tsigounis
321 King Street
CBD Sydney
(temporary address)

This is to certify that Dr Tsigounis was referred for psychiatric assessment by Dr George James of 174 Harris Street, Pyrmont, at her own request.

She denied any current or past history of psychiatric disorder except for a short period of stress related to problems, for which she was not responsible, which arose during the last three years of her medical course at Monash University and at the end of her first year as an intern.

Detailed questioning about the various aspects of her psychological functioning yielded normal responses. These included no history of mood disorder except for the brief stress reaction mentioned above, no suggestion of any psychotic disorder, past or present, no intellectual dysfunction, but rather the opposite, and no information to suggest personality disorder. In fact, she has functioned well under difficult circumstances at times during her life. She denied any substance abuse or other abnormal behaviour patterns. She presented as an attractive, intelligent, young woman of superior verbal capacity and intelligence, which receives support from her curriculum vitae, some of which was presented in documents provided to me.

OPINION. From my assessment, and other information provided to me, I consider that this doctor does not suffer from any form of psychiatric disorder. The brief episode of depression at the end of her internship was understandable as a result of the ongoing stressors related to me by her.

J.W. SHAND
M.B. B.S. D.P.M.

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DR ARTHUR OUZAS
MBBS (Hons), MM (Psychotherapy), FRANZCP
Consultant Psychiatrist
Provider Number: 0233028F

St. Vincent's Medical Centre
Level 1, 376 Victoria Street
Darlinghurst NSW 2010
Tel: 9360 7665 Fax: 9360 7673

152 Johnston Street
Annandale NSW 2038
Tel: 9552 6096 Fax: 9552 6037

10th August 2004

To whom it may concern

RE: DR HELEN TSIGOUNIS (D.O.B. 1/10/1967)

ADDRESS: 34 INKERMAN STREET
ST KILDA. VICTORIA

I am a registered medical practitioner in the state of New South Wales having graduated from the University of NSW in 1981 with second class honours. I attained Fellowship of the Royal Australian and New Zealand College of Psychiatrists in 1991 and graduated from the University of Sydney in 1995 with a Master of Medicine degree in the field of Psychotherapy. I have been in continuous private psychiatric practice specialising predominantly in psychotherapy (Axis II disorders, depression, anxiety) since 1991. I have a special interest in trauma, post-traumatic stress, severe personality disorders, anxiety and neurobiology.

The great majority of my practice is in the psychotherapeutic management of Axis II disorders or personality disorders.
I have been asked to briefly review aspects of the report by Dr Donna Kippax which was completed on 24th April 2002. and which was originally requested by the Medical Board of Queensland prior to Dr Tsigounis being accepted for an extended period of internship at Townsville Hospital.

Most significantly Dr Kippax writes that " none of the evaluating psychiatrists, including myself, has found evidence for an Axis I disorder for Dr Tsigounis".
Moreover her diagnostic opinion is that Dr Tsigounis meets the criteria for Paranoid Personality Disorder.

I do not believe that Dr Tsigounis meets the criteria for this diagnosis.
In the first instance there is no evidence suggesting that a paranoid attitude has been characteristic of her long term functioning and certainly not of her functioning premorbidly prior to the reported difficulties in Medical School and subsequently.

Attachment 6

Medical Practitioners Registration Act 2001
Section 88

INFORMATION NOTICE

DECISION TO CANCEL REGISTRATION AS A GENERAL REGISTRANT – INTERNSHIP CONDITIONS

TO: Dr Helen Tsigounis
34 Inkerman Street
ST KILDA VIC 3182

DECISION AND REASON(S)

The Medical Board of Queensland at its meeting on 23 March 2004 has decided to cancel your registration as a general registrant – internship conditions.

The reasons for this decision are more particularly set out in the minutes of the Board's meeting on 23 March 2004 a copy of which is attached hereto. As recorded in those minutes, the short reasons for this decision are:

(a) The Board does not consider that Dr Tsigounis has satisfactorily completed internship requirements in accordance with her conditional registration in that she has not reached the necessary level of competence to practise unsupervised;

(b) The Board does not consider that Dr Tsigounis can achieve the necessary level of competence to practise unsupervised;

(c) The Board does not consider that Dr Tsigounis has the ability to practise medicine without undue danger to members of the public who may come under her care;

DIRECTION TO RETURN CERTIFICATE OF REGISTRATION

In accordance with Schedule 3 of the Medical Practitioners Registration Act 2001, the Board directs that you return your certificate of registration to the Board within 14 days of receiving this notice.

APPEAL RIGHTS AND PROCESS

Pursuant to Part 7 of the *Medical Practitioners Registration Act 2001*, you may appeal against this decision to the District Court. The *Uniform Civil Procedures Rules 1999* contains provisions about appeals to the District Court.

Section 238 of the Act provides the following information on starting appeals:

(1) The appeal may be started at-
  (a) the District Court at the place where you reside or carry on business; or
  (b) the District Court at Brisbane.
(2) Subsection (1) above does not limit the District Court at which the appeal may be started under the *Uniform Civil Procedures Rules 1999*.
(3) The notice of appeal under the *Uniform Civil Procedures Rules 1999* must be filed with the registrar of the court within 28 days after you have been given this notice.

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(4) The court may, at any time, extend the period for filing the notice of appeal.

DATED this 26th day of March 2004

Deputy Registrar
Medical Board of Queensland

D. Natural justice – procedural fairness

Attachment 7

(i) Denial of legal representation

1. On day one of the hearing, 28 August 2004, Mr Franzese appeared for the Appellant. Mr Franzese was a legal practitioner admitted in Victoria but not in Queensland (A8.10).

2. The *Legal Profession Act 2004* confers pursuant to Division 2 section 47 an entitlement to an Australian legal practitioner to engage in legal practice in the jurisdiction.

   2.1 The intent of the legislation was to enable the State of Queensland to join in the National Practising Certificate Scheme. There was no requirement for Mr Franzese to apply for or hold a Queensland practising certificate as required by section 48 of the Act unless the legal practitioner "*engaged in legal practice principally in the jurisdiction*".

   2.2 His Honour considered the operation of the *Legal Profession Act* (A08-A09) and appears to have confined his deliberations to the operation of section 74 concerning professional indemnity insurance. Mr Franzese was uncertain whether his professional indemnity insurance covered legal practice in Queensland (A008.30-.40).

3. It was open to his Honour pursuant to section 52 of the *District Court of Queensland Act* to grant leave to enable Mr Franzese to appear (A010.1), which states:

   "*52. A party to an action or other proceeding under this Act may appear in person or by a barrister or solicitor or by any other*

person – or by any person allowed by special leave of the judge in any case..."

4. Whilst his Honour considered that leave could be granted to Mr Franzese to appear pursuant to section 52 of the *District Court of Queensland Act*, leave was opposed by the Respondent (A10.20) and refused by his Honour (A10.40). Thereafter the Appellant appeared in person, and did so for the first three days of the hearing.

5. His Honour did not suggest to the Appellant that she make application for an adjournment to enable her to engage legal representation, but rather suggests that she will "*have to conduct the case herself*" (A11), to which the Appellant replies that she has "*no choice*" (A11.20).

   5.1 It was incumbent upon his Honour in the circumstances of an unrepresented litigant to inform her of the availability of an application for adjournment which would be considered on its merits.

   5.2 It is submitted that his Honour was advised to inform the Appellant that an application for adjournment was available.

   5.3 It is further submitted that the circumstances overwhelmingly supported the granting of adjournment.

6. It is submitted that his Honour erred in refusing leave to Mr Franzese to appear. In exercising the discretion the primary consideration was the interest of justice. The gravity of the case which involved the Appellant's ability to pursue her professional career was an overwhelming consideration. It was not suggested that the Respondent would be prejudiced or in any way disadvantaged by leave being granted. To the contrary, in balancing the interests of the respective parties, the prejudice occasioned to the Appellant was the overwhelming consideration.

7. It is further submitted that having regard to the gravity of the complaint and the likely impact upon the Appellant's livelihood and reputation it was incumbent upon his Honour to support his refusal to grant leave in circumstances where there was clearly power to do so.

8. The outcome resulted in the Appellant appearing in person on days 1, 2 and 3 of the hearing, being 23 August 2004, 24 August 2004 and 25 August 2004, at which point the case was adjourned to a date to be fixed.

9. The prejudice occasioned to the Appellant was significant and incurable. On days 1 and 2 evidence was called from Drs Gelhaar, Coley and Ashley, whose evidence was central to the most serious of the complaints, the "*meningitis patient*".

10. The Appellant objected to Dr Gelhaar being called out of sequence as she was obviously unprepared for the witness and was attempting to engage counsel (A68.60-A69.50).

11. It is submitted that his Honour fell into further error by rejecting what was effectively an application for adjournment in respect of the evidence of Dr Gelhaar.

12. In the absence of being provided the opportunity for adjournment, the continuation of the hearing was unfair and prejudicial to the Appellant to the point where the ultimate findings of the trial judge are unsound and should not be allowed to stand.

(ii) Procedural unfairness

13. It is submitted that the manner in which the hearing proceeded amounted to procedural unfairness of such magnitude that it was tantamount to denial of natural justice. The aspects of procedural unfairness have been categorised

with illustrations provided, which are by no means exhaustive, having regard to the extent of the evidence.

14. On day 3, evidence was called from Dr Balanathan, whose evidence was central to the INR incident (major complaint number 4) and the potassium incident (major complaint number 5).

15. Evidence was given by Nurse Julia Bailey on day 1 and Nurse Buldo on day 3, which evidence was central to complaints relating to "*cannulation of children*", which was the second of the Respondent's major complaints.

16. It is submitted that in the absence of compelling reasons leave should have been granted, and that in refusing leave his Honour fell into error.

17. It is further submitted that the gravity of the case warranted his Honour informing the Appellant of her entitlement to make an application for adjournment. There was no enquiry as to the Appellant's capacity to represent herself in this difficult matter, or her willingness so to do. The position adopted by his Honour was clear, that the Appellant would have to appear in person, as evidenced by the following remarks (A11.10):

> "*But, Ms Tsigounis, do you realise that you'll have to conduct the case yourself.*
>
> *Appellant: Well, I have no choice.*
>
> *His Honour: Well, I don't think you do. I – I don't think you do have a choice.*"

It is submitted that these remarks are tantamount to his Honour refusing an adjournment.

17.1 His Honour's likely attitude to any adjournment application is seen from his approach to the Appellant's objection to calling Dr Gelhaar out of sequence (A68.60) and the remark:

> *"I hate to think what's going to be counsel's first request tomorrow morning, if you do get counsel."*

18. It is submitted that his Honour fell into error in failing to adjourn the proceedings, and at the very least, in raising the availability of an application for adjournment.

19. The conduct of the hearing in the Court below is in part governed by section 239 of the *Medical Practitioners Registration Act 2002*.

20. Whilst section 239(1)(b) states that the Court is not bound by the rules of evidence, it is submitted that observance of the principles of natural justice and application of the *Briginshaw* standard mean that the manner in which the proceedings in the Court below proceeded otherwise offended the section.

(i) Hearsay evidence

21. It is apparent from the judgment that his Honour was prepared to act on the basis of hearsay evidence but on selective occasions would reject evidence of that nature (A4199 [114]).

22. It is submitted that the admission of hearsay evidence is incompatible with the *Briginshaw* standard which his Honour purported to apply.

23. The hearsay evidence was extensive. It comprised comments in numerous affidavits, statements which were annexures, as well as oral evidence from the witnesses. The instances are too numerous to list in total. The following are illustrations.

Affidavits and annexed statements

24. It is submitted that as a general observation the affidavits, annexed statements and other material contained hearsay evidence which was highly prejudicial. The following are illustrations:

(i) Dr Cooksley Exhibit 5 Vol 9 2139 paras 6, 8.1.3, 9.1, Annexure EGC 1;

(ii) Dr Elcock (Exhibit 6) A2161 para 6.1.3, A2164;

(iii) Dr Small (Exhibit 7 A2165) A2166 para 8, 9, 20;

(iv) Dr Koco Xhori Exhibit 8 (A224) A2247 para 5.2.3, 7, 8;

(v) Dr Frischman (Exhibit 9 A2260) A2261 para 4.1.3;

(vi) Dr Gelhaar (Exhibit 10 A2264) A2265 para 11, 20, 24, A2269 para 27.3.2;

(vii) Nurse Brown (Exhibit 11 A2302) A2304 para 11.2.3, 11.2.5;

(viii) Nurse Rutherford (Exhibit 12 A2319) A2322 para 8 and 9;

(ix) Nurse Doe (Exhibit 13 A2345) para 3, 5.2, 5.5.1, 5.6.1, 5.7.1, 5.8.1;

(x) Nurse Lawty (Exhibit 15 A2407) para 7.5;

(xi) Nurse Struthers (Exhibit 16) A2411 para 4;

(xii) Nurse Gregory (Exhibit 17) A2418 para 5, 8, 9,;

(xiii) Dr Balanathan A119.25.

25. These are illustrations of what is submitted to be the general tenor of the affidavit evidence which was admitted and which contained hearsay evidence which was highly prejudicial to the Appellant.

26. The following are illustrations of prejudicial hearsay evidence contained in oral evidence:

(i) Dr Cooksley - 707.40, 710.30;

(ii) Nurse Bailey - 36.40;

(iii) Dr Gelhaar - 72.5 ;

(iv) Dr Coley – 85.4, 89.20-.30, 90.25-.35, 94.50

(ii) Leading questions

27. It is submitted that the extent to which his Honour permitted leading questions prejudiced the Appellant and amounted to procedural unfairness. Again, the examples are too numerous to list comprehensively but the following are illustrations (references are also included of unfair and inadmissible questions): 37.37, A70.26-.35, 72.40, 107.20, A128.30, 130.10, A459.50, 460.20, 462.1, 523.10, 682.10, 682.57, 927.50, 1067.30.

(iii) Intervention by judge

28. It is submitted that his Honour adopted a role of intervention which was excessive and prejudicial to the Appellant, to an extent which amounted to procedural unfairness. The following are illustrations: 106.10, 108.25, 318.50, 625.47, 648.1, 819.55, 820.15, 913.54, 916.1, 917.9, 932, 933.1.

29. In terms of intervention by his Honour, a critical factor is that the Appellant was unrepresented. Moreover, the Respondent was represented by senior counsel. The instances of intervention were not only unwarranted but had a tendency to advance points in favour of the Respondent's case.

(iv) Position of Appellant – advocate/litigant

30. It is submitted that the Appellant's role of advocate which was forced upon her resulted in further procedural unfairness. The Court, and on occasions at the urging of the Respondent, made reference to the Appellant's questioning, submissions and conduct in Court as being tantamount to evidence (683.16, 745.40, 107.20, 107.50-108.10).

31. It is submitted that the impression which his Honour formed of the Appellant exceeded evaluation of her evidence and was influenced by the manner in which she conducted the case. It would appear that the impression which his Honour gained of the Appellant, from extensive contact spanning fourteen hearing days, led to an assessment of her personality which approached psychiatric evaluation. The proposition is seen in the reference to "personality defect" (A4222 [232]) and "limited capacity for self examination and objective analysis of events and complaints" (A223 [238]).

32. It is submitted that his Honour's assessment of the Appellant has exceeded judgment of what could reasonably be concluded from her demeanour as a witness. It is unfortunate that much of what has been concluded appears to be based on observations of the Appellant appearing as an unrepresented litigant, a situation in which she was understandably overwhelmed.

33. It is submitted that for this reason his Honour's perception of the Appellant and approach became tainted.

(v) Nature of complaints

34. In the judgment his Honour noted the difficulty created for the Appellant by reason of the delay in respect of the complaints (A221 [225]). The point was raised by the Respondent in cross-examination of various witnesses, one illustration being Nurse Struthers (A67.30).

35. The Respondent placed reliance on complaints which were presented to the Appellant up to 18 months following the event.

36. In *Herron v McGregor* (1986) 6 NSWLR 246 at 254.E, McHugh JA states:

> *"A person with reasonable ground for complaint therefore, should pursue it with reasonable diligence. Memories fade. Relevant evidence becomes lost. Even when written records are kept long delay will frequently create prejudice which can never be proved affirmatively."*

37. Again, in *Longman v The Queen* (1989) 168 CLR 79 at 106 McHugh J reiterates the fallibility of delayed complaints, stating:

> *"The longer the period between an event and its recall, the greater the margin for error. Interference with a person's ability to remember may also arise from talking or reading about or experiencing other events of a similar nature or from the person's own thinking or recall."*

38. Further in the same case, McHugh states at 108:

> *"To the potential for error inherent in the complainant's evidence must be added the total lack of opportunity for the defence to explore the surrounding circumstances of each alleged offence."*

39. It is submitted that following Dr Yuen's investigation on 15 and 16 May 2003 at the Townsville Hospital the witness statements were obtained over an unfairly extended period. The following are illustrations:

(i) Dr Elcock – 6 February 2004 (A2163)'

(ii) Dr Xhori – 12 February 2004 (A2249);

(iii) Dr Frischman – 3 February 2004;

(iv) Nurse Brown – 4 November 2003 (A2307);

(v) Nurse Rutherford – 6 February 2004 (A2322);

(vi) Nurse Neil – 6 February 2004 (A2376);

(vii) Nurse Lawty – 5 February 2004 (A2406);

(viii) Nurse Struthers – 29 June 2004 (A2413);

(ix) Nurse Gregory – 12 February 2004 (A2418);

(x) Nurse Steer – 10 February 2004 (A2426);

(xi) Nurse Buldo – 6 February 2004 (A2430).

40. As a general submission the overwhelming majority of those statements appear to have come into existence for the purpose of the proceedings. In most instances they were not evidence of complaint in respect of specific incidents but rather investigation into the Appellant.

41. It is submitted that the combined effect of the matters which have been raised concerning conduct of the proceedings amounts to procedural unfairness of such a magnitude that retrial should be ordered.

(iii) Conduct of the proceedings

42. From the outset it would have been apparent that the Appellant was not only unfamiliar with court procedure, lacked legal training and knowledge of evidence, but was incapable of representing herself in a matter of such complexity to which grave consequences attached including her ability to pursue a career in medicine. The point is illustrated during evidence from Nurse Bailey, the first witness, when his Honour instructs the Appellant she is making statements rather than posing questions (A45-48).

43. It is submitted that the manner in which the hearing was conducted involved procedural unfairness which became apparent from the evidence of the first witness, Julia Bailey, wherein evidence in chief was frequently adduced through leading questions (see A36.30-A37.40). Whilst the right to object to leading questions was available to the Appellant, the inescapable conclusion to be drawn is that she was unaware of that right. Further, procedural fairness demanded that limited (if any) evidence in chief beyond the documentary evidence be adduced orally. This is particularly so given the Appellant was in no position to adequately object to gross hearsay in the affidavits tendered, let alone oral evidence which was objectionable due to hearsay.

44. The next witness called was Nurse Struthers (A61). She was called out of sequence from the witness list, the next scheduled witness being Dr Niall Small (A60.50). When Nurse Struthers was called after 4.01pm on day one the Appellant objected that she had prepared for the evidence of Dr Niall Small and had not considered the evidence of Nurse Struthers (A60.50). The response from his Honour was that the Appellant had "*to be ready for changes like this*" (A61.10).

44.1 It is submitted that the approach adopted by his Honour was unreasonable. Having regard to the time of the day and the unpreparedness of the Appellant to deal with the evidence, an adjournment should have been granted, at the very least, until the following morning. It is submitted that his Honour should have rejected the evidence which was clearly hearsay and highly prejudicial.

44.2 The hearsay evidence of Nurse Struthers was admitted by his Honour notwithstanding the fact that Mr Tait appearing for the Respondent acknowledged that it was "only hearsay" (A64.30).

45. Evidence from Nurse Struthers related to alleged incorrect procedure involving a vaginal swab (A63.40).

46. The affidavit from Karen Ruth Struthers (Exhibit 16 2411) was admitted without objection. The substance of the affidavit was based on hearsay evidence (A2411, 2413), was inadmissible and should have been rejected.

47. Those portions of the affidavit of Ms Struthers which were in inadmissible form should have been unilaterally rejected by the Court. It would appear clear that the Appellant lacked the capacity to identify from the affidavit material which was tendered and became Exhibits those portions which were inadmissible.

48. Nurse Struthers was then permitted by the Court to give hearsay evidence of what she alleges was said by the unnamed patient (A64.40). It is submitted that his Honour should have rejected the evidence which was clearly hearsay and grossly prejudicial.

49. It is submitted that in doing justice between the parties that the prejudice to the Appellant of having to deal with Nurse Struthers who was called out of sequence far outweighed any inconvenience attached to calling Nurse Struthers the following day.

50. An element of unfairness associated with this complaint from Nurse Struthers, which was a feature of many of the complaints, was the fact of delay associated with the making of the complaint, in this instance one year after the supposed incident (A67.30).

favours the granting of leave which would enable the Court to entertain a variety of options including general registration or general registration subject to conditions which the Court considered appropriate.

12. For the reasons which have been outlined, it is submitted that this is an appropriate case for granting leave to appeal.

(2) Decision by the Board to cancel the Appellant's Registration

1. His Honour erred in determining the appeal from the decision of the Medical Board of Queensland dated 23 March 2004 pursuant to section 94 of the *Medical Practitioners Registration Act 2001 (Qld)* in circumstances where the Board's decision was made pursuant to section 88 of the Act ([40] of his Honour's primary judgment).

2. It is apparent from the Minutes of the Board dated 22 March 2004 that the decision to cancel the Appellant's registration was made pursuant to section 88(3) of the Act. Further, the Information Notice to cancel the Appellant" registration dated 26 March 2004 and the reasons therein were issued pursuant to section 88 of the Act (A.3025-3029).

   The cancellation and reasons given by the Medical Board are specific in addressing competency level and capacity as an Intern as per Internship Requirements. Internship Requirements by the Board were as per Information Notices dated 11 June 2002 and 29 January 2003 to the Appellant (A.2766, A.2767).

3. The decision under section 88 of the Act is that decision which was the subject of the appeal before his Honour. Section 94(1) includes a wider scope, and would encompass virtually any complaint against the Appellant including her work in areas that were not part of her Internship Requirements. This would include the Appellant's work in Cardiology, Emergency and Intensive Care, and would cover the majority of the complaints.

4. His Honour approached the appeal in terms of section 94(1)(a) of the Act, and in so doing fell into error,

5. His Honour is inconsistent in his reasoning in that he correctly states that Cardiology was not part of the Appellant's Internship Requirements but fails to state that neither was Emergency.

3. Grounds of Appeal

1. His Honour allowed hearsay material before the Court, and relied upon it in his findings.
2. His Honour's primary findings are not supported by the evidence in accordance with the *Briginshaw* standard of proof.
3. His Honour does not consider the totality of the evidence before him in both his primary findings and his final judgment.

The evidence in relation to demonstrating the above will be divided into the following categories:

(A) Complaints and Competency

(B) Psychiatric Issue

(C) Incompetency by the Medical Board

(D) Natural Justice – Procedural Fairness

Attachment 8

FILE COPY

IN THE SUPREME COURT OF QUEENSLAND
COURT OF APPEAL DIVISION

Appeal No. 4611/05

HELEN TSIGOUNIS

Applicant for Leave to Appeal / Appellant

- and -

MEDICAL BOARD OF QUEENSLAND

Respondent

OUTLINE OF ARGUMENT FOR THE APPLICANT / APPELLANT

A. OVERVIEW

1. In essence, it is the case for the Applicant/Appellant (hereinafter, for convenience, called **"Dr Tsigounis"**) that the learned primary Judge — his Honour Judge Wall QC — acted unjudicially, and entirely misconceived his functions, by:
   - 1.1. paying only lip-service to the "*Briginshaw* standard";
   - 1.2. making purported findings of fact which were not supported by the evidence;
   - 1.3. where the evidence was in conflict (especially with respect to matters of expert opinion), failing to articulate any reasoned or intelligible basis for accepting one body of evidence in preference to another;
   - 1.4. substituting his own amateur diagnostic skills for expert evidence; and
   - 1.5. failing to address the true issues in the proceedings.

2. No appeal from the primary Judge's findings of fact is available. But reference to the evidence is both necessary and inevitable, in order to demonstrate the fact that the primary Judge misconceived his functions, the extent to which his Honour did so, and the impact which this had on his Honour's decision.

3. Moreover, whilst there is no appeal from the primary Judge's findings of fact, it is submitted that purported findings which were not reached in the proper exercise of a judicial function are not protected by the statutory immunity from appellate review.

4. Consistently with the fact that this appeal involves no direct challenge to the findings of fact *per se*, but rather the approach which his Honour took to making those findings, factual issues are dealt with in three schedules:
   4.1. Schedule One contains a chronology — intended to be non-contentious — of relevant background facts;
   4.2. Schedule Two canvasses evidentiary issues relevant in the proceedings at first instance, for the purposes mentioned in paragraph 2, above; and
   4.3. Schedule Three deals with matters concerning the psychiatric condition of Dr Tsigounis, which (it is submitted) was never an issue in the proceedings, but nonetheless was the subject of a direction by the learned primary Judge.

5. Critically, the learned primary Judge's decision to direct the Board to impose additional conditions on Dr Tsigounis — conditions to the effect that during the prescribed internship she submit to and undergo such psychiatric treatment as considered appropriate by the Board with regular reporting to the Board by the treating psychiatrist/s — is a decision which (with respect) betrays, in a single instance, grounds for each of the concerns raised on Dr Tsigounis's behalf; it involved (at least implicitly) the making of findings:
   5.1. which were not supported by the evidence;
   5.2. which paid only lip-service to the "*Briginshaw* standard";
   5.3. for which there was expressed no reasoned or intelligible basis for accepting one body of evidence in preference to another;
   5.4. which involved the primary Judge's substituting his own amateur psychiatric diagnosis for expert evidence; and
   5.5. which failed to address the true issues in the proceedings.

6. Moreover, the learned primary Judge required Dr Tsigounis to commence the hearing without legal representation, and to appear unrepresented for the first three days of the hearing, from 23 to 25 August 2004. Whilst (in different circumstances) such an exercise of a judicial discretion may be unappealable, in the context of this case it amounted to a serious denial of procedural fairness.

B. BACKGROUND

7. A "Chronology of Background Events" is set out in Schedule One.

8. The proceedings before the learned primary Judge comprised an appeal by Dr Tsigounis from a decision of the Medical Board of Queensland ("**the Board**") under s 88(3) of the *Medical Practitioners Registration Act 2001* (Qld) ("**the Act**") to cancel her conditional registration as a medical practitioner.

9. Whilst Dr Tsigounis was partially successful at first instance, the aspects of the learned primary Judge's decision which are relevant for present purposes were decided adversely to her. In particular, the primary Judge:

9.1. Upheld the Board's decision that Dr Tsigounis had not satisfactorily completed her internship, and therefore directed the Board to extend the probationary conditions imposed on her registration for a period of one year by requiring her to undertake the prescribed internship; and

9.2. Further directed that additional conditions be imposed, to the effect that:[1]

> "during the prescribed internship Dr Tsigounis should submit to and undergo such psychiatric treatment as is considered appropriate by the Board with regular reporting to the Board by the treating psychiatrist/s and that during the prescribed internship there be such mentoring and supervision as is considered appropriate by the Board, together with contemporaneous advice to Dr Tsigounis of any perceived deficiencies in the performance of her internship and definitive assessment of her progress."

C. Leave to Appeal

10. Under s.118(3) of the *District Court Act 1967*, leave is required for this appeal. It is submitted that the proposed appeal involves errors of law, and is one of considerable gravity, raising an important question of justice: *Johns v Johns*[2]; *Jimenez v Jayform Contracting Pty Ltd*[3].

11. The errors of law are found in the learned primary Judge's:

11.1. consistent misapplication of the correct standard of proof;

11.2. failure to act judicially, and his Honour's complete misconception of his functions; and

11.3. denial of procedural fairness in requiring Dr Tsigounis to commence the hearing unrepresented and unprepared.

12. The gravity of the case, and the important question of justice, lie in the impact of the decision upon Dr Tsigounis's ability to pursue her career as a medical practitioner, and the inevitable impact on her standing and reputation both generally and as a member of that profession. The adverse findings of the learned primary Judge in relation to Dr Tsigounis's professional competence — and, at least implicitly, her psychiatric state — are infected by an erroneous approach to the proper standard of proof, in a case in which the consequences to Dr Tsigounis could not be more profound.

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[1] AB208, Reasons for Judgment at [298]

[2] [1988] 1 Qd.R. 139 at 142

[3] [1995] 1 Qd.R. 401 per Davies and McPherson JJA at p.3

D. THE BOARD'S CASE

13. In opening[4], the Board identified seven so-called "key incidents" underlying the decision to cancel Dr Tsigounis's registration as a medical practitioner. These can be summarised as follows:

13.1. the "meningitis patient" (27 January 2003)[5];

13.2. the cannulation of children: an incident involving Nurses Bailey and Haley (2 September 2002)[6], an incident involving Nurse Steer (September 2002)[7], an incident involving Dr Hodge (about October 2002)[8], and an incident involving Dr Elcock and Nurses Maloney and Buldo (28 October 2002 to 31 January 2003);[9]

13.3. the lumbar laminectomy patient/diuretic incident involving Dr Lucas (20 February 2003);[10]

13.4. the blood coagulation profile incident involving Dr Balanathan (24 February to 9 March 2003);[11]

13.5. the phone order for potassium, also involving Dr Balanathan (24 February to 9 March 2003);[12]

13.6. the drug administration/intubation incident involving Dr Gelhaar (mid-January 2003);[13] and

13.7. the morphine/Maxalon incident involving Nurse Margaret Weber (23 April 2004)[14].

14. The case opened on behalf of the Board evidently recognised — as is clearly the case — that a proper distinction is to be made between complaints in relation to these "key incidents", and other complaints which cannot of themselves provide a bar to general registration. An illustration of complaints falling within this latter category are the various "medication incidents" referred to by the primary Judge. Where established to the requisite standard of proof, matters of this type are properly characterised as errors or mistakes which do not evidence a lack of minimum standard of knowledge or competency to prevent general registration as a medical practitioner: *Pillai v Messiter*[15].

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[4] Vol 1 A12-17
[5] Reasons for Judgment, A4200
[6] Reasons for Judgment, A4196
[7] Reasons for Judgment, A4196
[8] Reasons for Judgment, A4197
[9] Reasons for Judgment, A4198
[10] Reasons for Judgment, A4187
[11] Reasons for Judgment, A4189
[12] Reasons for Judgment, A4190
[13] Reasons for Judgment, A4199
[14] Reasons for Judgment, A4210
[15] (1989) 16 NSWLR 197, per Kirby P at 202

15. The "key incidents" are dealt with in Schedule Two. For the reasons set out in Schedule Two, the following submissions are made.

16. **First**, in relation to each of the "key incidents", the Board failed to establish its case to the *Briginshaw* standard of proof.

17. **Secondly,** in numerous instances, either:
    17.1. There was no evidence to support the learned primary Judge's findings in favour of the Board's case; or
    17.2. To the extent that there was "evidence" supporting the Board's case, it was both technically inadmissible are lacking in any probative weight.

18. **Thirdly,** in accepting the Board's case, the learned primary Judge either rejected — or simply failed to have regard to — the evidence of Dr Tsigounis, and evidence supporting her, even where:
    18.1. There was no evidence to the contrary; and/or
    18.2. To the extent there was evidence to the contrary, it was not put to Dr Tsigounis (or the relevant witness) in cross-examination.

19. **Fourthly,** in virtually every instance, where there was a conflict in the expert evidence, the learned primary Judge found in the Board's favour, without any regard to:
    19.1. The numerical weight of expert witnesses favouring Dr Tsigounis;
    19.2. The weight of expert testimony from witnesses called by the Board, but who gave evidence favourable to Dr Tsigounis;
    19.3. The fact that expert witnesses called by the Board founded their opinions on assumptions which were contradicted — or were not sustained — by admissible evidence; or
    19.4. Concessions, made under cross-examination, by expert witnesses called by the Board.

20. **Fifthly,** in virtually every instance, where there was a conflict in the expert evidence, the learned primary Judge found in the Board's favour, without any regard to:
    20.1. The numerical weight of witnesses favouring Dr Tsigounis;
    20.2. The support which witnesses favouring Dr Tsigounis received from contemporaneous documentary records;
    20.3. The weight of testimony from witnesses called by the Board, but who gave evidence favourable to Dr Tsigounis;
    20.4. Other factors (as detailed in Schedule Two) affecting the credit of testimony given by witnesses called by the Board.

21. **Sixthly,** the learned primary Judge failed — almost in every instance — to articulate any reasons, let alone a reasoned or intelligible basis, for preferring the evidence supporting the Board's case, over the evidence supporting the case for Dr Tsigounis.

22. **Seventhly,** that the only conclusion reasonably open on the evidence — let alone correctly applying the *Briginshaw* standard of proof — would have been a finding to the effect that Dr Tsigounis had satisfactorily completed the internship conditions in accordance with the Information Notice dated 21 June 2002.

23. Perhaps the clearest illustration of the learned primary Judge's non-judicial approach to evidentiary issues arises in relation to the question — dealt with under sub-heading (1)a in Schedule Two — whether the "meningitis patient" in fact had meningitis. His Honour accepted the Board's case, even though:
    23.1. It had the support of only one expert witness (Dr Cooksley);
    23.2. That opinion was rejected by Dr Small, a witness for the Board;
    23.3. That opinion was also rejected by Dr Papagelis, a witness for Dr Tsigounis, whose evidence the learned primary Judge generally accepted;
    23.4. Dr Gelhaar, the Registrar supervising Dr Tsigounis at the time, was unable to put the diagnosis any higher than "query meningitis";
    23.5. All relevant expert witnesses — Dr Small, Dr Papagelis, Professor Dewan, and even Dr Cooksley — accepted that the witness did not present with the "classic indicators" of meningitis, including high white blood cell count and fever; and
    23.6. As Dr Cooksley admitted under cross-examination, his opinion was based partly on hearsay, was made without having examined the patient or having read the entire patient notes, and involved assumptions of fact which were contradicted by other evidence.

24. Yet what is most extraordinary about the "meningitis patient" is that the Board, bearing the onus of proof:
    24.1. relied solely on expert opinion from a doctor who had never seen the patient nor read the entire file, who informed himself by hearsay which was not established in evidence, and who admittedly made assumptions which were proved to be erroneous;
    24.2. was unable to impeach the contrary expert opinions of undisputed experts — including one called as a witness for the Board — who were unanimously of a contrary view; and
    24.3. in these circumstances, failed to adduce any evidence of the patient's actual condition, as determined over the intervening two years.

25. With the evidence in this state, even an adverse finding on the ordinary balance of probabilities would be hard to sustain as an exercise of a judicial function, let alone a finding in accordance with the *Briginshaw* standard.

E. Addressing the Wrong Issues

26. It is submitted, with respect, that the learned primary Judge utterly misconceived the purpose of the fact-finding exercise on which he was embarked. His Honour seems, at times, to have approached the evidence as if it were a medical malpractice case, in which the issue was whether the care received by patients was optimal. Repeatedly, his Honour failed to address the real issue — namely whether, assuming that the treatment received by patients in some instances may have been sub-optimal, Dr Tsigounis was responsible for that to a degree which called into question her fitness to be registered as a medical practitioner.

27. This is perhaps best illustrated by the learned primary Judge's approach to evidentiary issues arises in relation to the question — dealt with under sub-heading (1)b in Schedule Two — whether the "meningitis patient" ought to have received a lumbar puncture.

28. Aside from that question, there was no dispute that Dr Tsigounis's treatment of the patient was competent and thorough. Dr Papagelis described it as "a very thorough workup", a view which was not challenged, nor contradicted by any other witness.

29. It was also common ground that a lumbar puncture involves an element of risk (albeit relatively small), and should not be undertaken unless clearly indicated.

30. Not one, but several medical experts — witnesses whose credentials were not challenged, and were beyond challenge — gave evidence which supported the decision of Dr Tsigounis not to perform a lumbar puncture: Dr Papagelis; Professor Dewan; Dr Coley and Dr Rosenblum. Even the Board's star witness on this issue, Dr Gelhaar, made concessions in cross-examination which were favourable to Dr Tsigounis.

31. Yet, even if the learned primary Judge were entitled to be satisfied that performing a lumbar puncture was the preferable course of action in the circumstances, that was not the issue. The issue was whether the conduct of Dr Tsigounis demonstrated unfitness to practise. The learned primary Judge simply did not address how the competence of Dr Tsigounis could be called into

question, when the course of action which she adopted was supported by several competent medical practitioners — even though others (or at least one other) might have disagreed.

F. THE "*BRIGINSHAW* STANDARD"

32. The learned primary Judge clearly recognised[16] that the requisite standard of proof was that articulated by the High Court in *Briginshaw v Briginshaw*[17].

33. However, it is submitted that his Honour failed to apply that standard, and (implicitly) misdirected himself as to its requirements. The features of the primary Judge's approach which support his contention include:
    - 33.1. a failure to give any weight to the seriousness of the allegations made, or the gravity of the facts to be proved, by the Board;
    - 33.2. the resolution of contested issues of fact against Dr Tsigounis, in numerous instances where the dispute was between Dr Tsigounis's testimony and the uncorroborated word of another;
    - 33.3. the resolution of contested issues of fact (including matters of expert opinion) against Dr Tsigounis, without any or any adequate explanation for the preference given to some witnesses (including expert witnesses) over others; and
    - 33.4. a failure to give any weight to the inherent unlikelihood of the Board's account having regard to the uncertain and inexact status of material factual allegations.

34. The gravity of the case required that the Board's evidence be placed under the most careful scrutiny. As the Supreme Court of Western Australia observed in *Hewett v Medical Board of Western Australia*[18]:

> "The consequences to a medical practitioner of being found guilty of infamous conduct are extremely serious. In this case the Board took the view that the proper penalty was to remove the appellant's name from the Register of Medical Practitioners. No greater penalty could be suffered by a medical practitioner."

The observations of Fitzgerald AJA in *Sinha v Health Care Complaints Tribunal*[19] are to like effect.

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[16] A4181, Reasons for Judgment at [27]-[31]
[17] (1938) 60 CLR 336
[18] [2004] WASCA 170
[19] [2001] NSWCA 206 at [23]-[25]

G. The Psychiatric Issue

35. The evidence relating to the psychiatric issue is canvassed in Schedule Three. For the reasons there set out, the following submissions are made.

36. **First,** the psychiatric issue simply was not an issue in the proceedings before the learned primary Judge. His Honour (with respect) acted unjudicially in pursuing a question which was not in issue before him.

37. **Secondly,** there was a profound denial of natural justice in his Honour's approach to this issue, given that:
    37.1. Dr Tsigounis was not put on notice that her psychiatric condition would be in issue in the proceedings at first instance;
    37.2. The Board expressly disavowed any reliance on her psychiatric condition;
    37.3. Evidence in her favour, on this issue, was not challenged;
    37.4. She had no opportunity to challenge evidence which might be regarded as adverse to her on this issue; and
    37.5. She had no opportunity to adduce additional evidence, in her favour, on this issue.

38. **Thirdly,** that the learned primary Judge's Reasons for Judgment do not reveal any findings of fact which would justify the direction which his Honour gave to the Board.

39. **Fourthly,** that, given the state of the evidence, there was no (or insufficient) evidentiary foundation for the findings of fact which would be necessary — although not expressed in the learned primary Judge's Reasons for Judgment — to support such a direction as his Honour gave to the Board.

40. **Fifthly**, that, in the absence of any (or any sufficient) evidentiary foundation for the findings of fact which would be necessary to support such a direction as the learned primary Judge gave to the Board, it must be concluded that his Honour acted upon his own amateur diagnosis of Dr Tsigounis's psychiatric condition, rather than any evidence.

H. CONDUCT OF THE HEARING

41. On day one of the hearing, 28 August 2004, Mr Franzese, a legal practitioner admitted in Victoria but not in Queensland[20], appeared for Dr Tsigounis. Mr Franzese was uncertain whether his professional indemnity insurance covered legal practice in Queensland, as required pursuant to s 74 of the *Legal Profession Act 2004* (Qld)[21].

42. A grant of leave to appear to Mr Franzese pursuant to s 52 of the *District Court of Queensland Act 1967* was opposed by the Respondent[22], and refused by the learned primary Judge[23]. His Honour did not suggest to Dr Tsigounis that she make an application for an adjournment to enable her to engage legal representation. There was no enquiry as to Dr Tsigounis's capacity or preparedness to represent herself matter.

43. Having regard to the gravity of the complaints and the likely impact upon Dr Tsigounis's livelihood and reputation, the learned primary Judge ought to have informed Dr Tsigounis of the availability of an application for an adjournment in order to secure legal representation. Instead, the learned primary Judge was involved in the following exchange with Dr Tsigounis[24]:

> His Honour: But Ms Tsigounis, do you realise that you'll have to conduct the case yourself.
> Appellant: Well, I have no choice.
> His Honour: Well, I don't think you do. I — I don't think you do have a choice.

These remarks were tantamount to a refusal of an application for an adjournment.

44. The result was that Dr Tsigounis appeared in person on days 1, 2 and 3 of the hearing — 23 to 25 August 2004 — at which point the case was adjourned to a date to be fixed.

45. The prejudice was significant and incurable. On days 1 and 2, the Board called Dr Gelhaar, Dr Coley and Dr Ashley, whose evidence was central to the most serious of the complaints, that concerning the "meningitis patient".

46. On day 1, at 4.01 pm, the Board called Nurse Struthers out of sequence in the witness list[25]. Dr Tsigounis objected and sought an adjournment at least until the

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[20] Vol 1 A8.10
[21] A8.30-40
[22] Vol 1 A10.20
[23] A10.40
[24] A11.10-20
[25] A60.50

following morning on the basis that she did not know she would be "acting as solicitor today, and I certainly haven't prepared"[26]. The learned primary Judge's response was that Dr Tsigounis had "to be ready for changes like this"[27]. It is submitted that his Honour fell into error by rejecting an application for adjournment in respect of the evidence of Nurse Struthers.

47. On day 1, at the conclusion of the evidence of Nurse Struthers, the Board called Dr Gelhaar, again out of sequence. Again, Dr Tsigounis objected to Dr Gelhaar being called out of sequence, as she was having her solicitor attempt to engage counsel and was not prepared[28]. The learned primary Judge's likely attitude to an adjournment application is seen in the following response to Dr Tsigounis's objection to calling Dr Gelhaar out of sequence[29]:

> "I hate to think what's going to be counsel's first request tomorrow morning, if you do get counsel."

It is submitted that his Honour fell into error by rejecting what was effectively an application for adjournment in respect of the evidence of Dr Gelhaar.

48. On day 1, evidence was given by Nurse Bailey, and on day 3 by Nurse Buldo, that evidence being central to complaints relating to the cannulation of children ("key incident" number 2). On day 3, evidence was called from Dr Balanathan, whose evidence was central to the INR incident ("key incident" number 4), and the potassium incident ("key incident" number 5).

49. The denial of legal representation not only had the result that Dr Tsigounis was unrepresented whilst evidence was adduced from some of the most critical witnesses for the Board. It also had the consequence that the learned primary Judge formed an impression of Dr Tsigounis which exceeded an evaluation of her evidence, and was influenced by the manner in which she conducted the case as an unrepresented litigant, unfamiliar with court procedure, and lacking legal training and knowledge of evidence, a situation in which she was understandably overwhelmed.

50. The impressions which the learned primary Judge gained of Dr Tsigounis from extensive contact spanning fourteen hearing days led to an assessment of her personality which approached psychiatric evaluation. This is apparent in his Honour's references to "a personality defect"[30], a "limited capacity for self

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[26] A61.30-40
[27] A61.10
[28] A68.60-A69.50
[29] A69.5
[30] A422Z [232]

examination and objective analysis of events and complaints"[31], and the opinions of Professor Judd and Dr Kippax being "also consistent with my own observations and assessment of Dr Tsigounis during the hearing of the appeal"[32].

51. It is submitted that his Honour's assessment of Dr Tsigounis exceeded what could reasonably be concluded from her demeanour as a witness. It goes beyond the capacity of a judge in a court of law in the absence of expert evidence to make findings approaching the status of psychiatric diagnosis.

52. The effect of the learned primary Judge having (practically) forced Dr Tsigounis to represent herself — including his Honours having (practically) forced Dr Tsigounis to cross-examine eminent expert witnesses, and witnesses called out of turn, relevant to what the Board characterised as the "key issues" — was to deny her any semblance of a fair trial.

53. That should be enough, in any case, for appellate interference. But this case was much stronger, given these additional factors.

54. **First,** that Dr Tsigounis was not to blame for the situation. The blame — if "blame" is the right word — rests with the inter-State barrister who attempted to represent her without first ensuring that he as legally competent to do so.

55. **Secondly,** that Dr Tsigounis — as an aspiring member of the medical profession — was placed in the invidious position of cross-examining, not only her colleagues, but also her supervisors and professional superiors.

56. **Thirdly,** that witnesses were called out of turn, which is a difficult situation for even experienced counsel, but impossible for a lay-person who has not prepared to conduct cross-examination.

57. **Fourthly,** that the case presented for the Board was not (for the reasons outlined, especially, in Schedule Two) characterised by the transparent fairness which is expected of prosecuting authorities in our legal system.

58. **Fifthly,** that the factual issues — and especially the issues canvassed in the expert evidence — were of a high order of complexity.

59. **Sixthly,** that the procedural and legal considerations were also more than ordinarily complex.

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[31] A4223 [238]
[32] A4227 [246]

60. **Seventhly,** that (for the reasons canvassed above) the learned primary Judge exacerbated the situation, by:
    60.1. misconceiving the relevant issues; and
    60.2. addressing issues which were not properly before him.
    To put the matter rhetorically: How can Dr Tsigounis be expected (as a lay advocate representing herself) to have understood and addressed the real issues, when his Honour did not, and could not, do so ?

61. **Eighthly,** that the learned primary Judge was (with respect) less than rigorous in his Honour's observance of the rules of evidence, for example admitting and acting upon hearsay where it was prejudicial to Dr Tsigounis[33] — the most striking example is Dr Balanathan's evidence, referred to under sub-heading (3)f of Schedule Two — but, on other occasions, rejecting hearsay, including hearsay which may have been beneficial to Dr Tsigounis.

62. **Ninthly,** the delayed nature of many of the complaints — combined with the fact that the Board was less than assiduous in investigating complaints promptly; nor did it inform Dr Tsigounis of complaints against her at a time when she could have responded to them effectively — created a situation which would have been taxing even to experienced counsel, let alone a self-represented litigant.

63. **Tenthly,** the extent of intervention by the learned primary Judge[34] — almost invariably in favour of the Board, which was represented by senior counsel — created an extraordinarily awkward situation for an inexperienced advocate attempting to represent herself.

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[33] examples include:

(in documentary evidence):
Dr Cooksley, Vol 9 A2138, paras 6, 8.1.3, 9.1, Annexure EGC1
Dr Elcock, Vol 9 A2161, para 6.1.3; A2164
Dr Small, Vol 9 A2165, paras 8, 9, 20
Dr Koco Xhori, vol 9 A2247, paras 5.2.3, 7, 8
Dr Frischman, Vol 9 A2260-61, para 4.1.3
Dr Gelhaar, Vol 9 A2264, A2265 paras 11, 20, 24; A2269, para27.3.2
Nurse Brown, Vol 9 A2302, paras 11.2, 11.3, 11.5
Nurse Rutherford, Vol 9 A2319, A2322, paras 8, 9
Nurse Doe, Vol 9 A2345, paras 3, 5.2, 5.5.1, 5.6.1, 5.7.1, 5.8.1
Nurse Lawty, Vol 9 A2407, para 7.5
Nurse Struthers, Vol 9 A2411, para 4
Nurse Gregory, Vol 9 A2418, paras 5, 8, 9

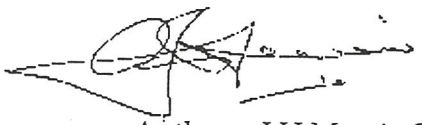
(in oral testimony):
Dr Cooksley, Vol 4 A707.40 to A710.30
Nurse Bailey, Vol 1, A036.40
Dr Gelhaar, Vol 1 A072.5
Dr Coley, Vol 1 A085.4, A089.20-30, A090.25-35, A094.50
Nurse Struthers, Vol 1 A46440

[34] some examples are: Vol 1, A106.10, A108.25; Vol 2, A318.50; Vol 3, A625.47, A648.10; Vol 4, A819.55, A820.15, A913.54, A916.10, A917.9, A932, A933.10

64. **Eleventhly,** the course of the proceedings unfairly exposed Dr Tsigounis to a situation in which she should never have been placed; a situation in which her performance as an advocate was evidently relied on by the learned primary Judge in:
    64.1. from her cross-examination of expert witnesses in relation to clinical issues, assessing her own clinical competence; and
    64.2. from her performance at the Bar Table (rather than in the witness box), forming his own amateur diagnosis of her psychiatric condition.

I. ORDERS SOUGHT

65. The Court of Appeal should make the following orders pursuant to s 119(2)(b) of the *District Court of Queensland Act 1967*:
    65.1. Leave to appeal granted.
    65.2. Appeal allowed.
    65.3. The orders of His Honour Judge Wall QC made 11 May 2005, 21 June 2005 and 12 July 2005 be set aside.
    65.4. In lieu thereof, order that there be substituted for the decision of the Board a decision that that Dr Tsigounis has satisfactorily completed the internship conditions in accordance with the Information Notices from the Medical Board of Queensland dated 21 June 2002 and 28 January 2003.
    65.5. That the Board pay Dr Tsigounis's costs, both at first instance and on appeal.



Anthony J H Morris QC
Counsel for the Applicant / Appellant

13 January 2005

Attachment 9

Medical Board procedure but also to shift the blame of an unacceptably delayed process onto me.
Why didn't I appeal the decision that was made in January of 2004?

In relation to the application I made to the Board on the 17th April 2003, the Supreme Court judges state the following:
"At about this time, however the Board became aware of, and caused to Investigate Complaints about the Applicant's performance at the Townsville Hospital.
In particular Dr. Balanathan who gave an unsatisfactory report"
This is a false statement and does not consider the true timing of the events.
As of the 17th of April 2003(in fact as of 15th May 2003) there were no complaints, statements or bad reports (see chapter one).
In fact all internship reports and other assessments were excellent.
It was only when Dr K Yuen from the Medical Board visited the Hospital to Investigate did complaints surface (see June 11th Show Cause-chapter one).
Dr Yuen had talked to Dr Balanathan during her visit.
It was only after this, and after I had left the Hospital , that the *Balanathan Internship report* come into existence.
This statement by the Supreme Court Judges serve to cover-up the solicitation of complaints by the Board after I resigned from the hospital.

DIVERSION FROM THE REAL ISSUES

The Supreme Court Judges said that even if this appeal was determined in my favour it would make no difference to my registration status as a doctor at the present time because of the *"recency to practice"* issue. [Judgement]
The "recency to practice issue" refers to the fact that I had not worked as a doctor for three years and for three years I was not registered under *the Act.*
For this further reason they say, it is irrelevant to determine my appeal.
Justice Keane states, *"The expiration of the Applicant's registration and the subsequent lapse of time, mean that the Applicant's registration cannot now be restored by the Board".*
"The only way the Applicant can now be registered is by a fresh application to the Board [55]"

"The question of the Applicant's registration is now one for the board to decide afresh upon a new application. [Judgement]

The *"recency to practice"* issue is clearly a separate issue in *the Act* and refers to any doctor that has not practiced for a period of time.
The Medical Board may then place specific conditions on the doctor's registration including attending various seminars or working under some form of supervision for a time frame.
It does not determine or change the doctor's previous status whether he is an intern, an RMO or a consultant.
The determination of whether I had successfully completed internship requirements, the issue of the appeal, is of paramount importance for any fresh application made to the Board.
With this determined status, the Board under the "recency to practice" section of *the Act,* may attach special conditions to my registration.

This diversion to the issues of the Appeal serve to cloud the real issues and is a case of *"when all else fails try a new approach".*
The Supreme Court Judges conclude the following; [Judgement]

"Under S71 and S72 of the Act, she was entitled to apply for and be granted a renewal of her registration.
The Applicant made no such application and no attempt to comply with the order (apply for a further internship training).

The supplementary Affidavit that was filed with the court and was before the Supreme Court Judgement clearly reveals that I made numerous applications to hospitals so as to comply with the order.
I was unsuccessful.

HIGH COURT

A ten page document with 150 pages of attachments was filed with the High Court of Australia revealing that the entire legal process was void,that there was judicial fraud and legal and judicial abose of process.
10 errors of law were put forth before the High Court.

The following is the High Court Decision;

Attachment 10

IN THE HIGH COURT OF AUSTRALIA No. B29 of 2006

BRISBANE REGISTRY

BETWEEN HELEN TSIGOUNIS

Applicant

And

MEDICAL BOARD OF QUEENSLAND

10

Respondent

APPLICANTS SUMMARY OF ARGUMENT

Reference is made to the Medical Practitioners Registration Act of Queensland, 2001 ("the Act")

PART I - SPECIAL LEAVE QUESTIONS

20

1. Did the Court of Appeal err in determining the Bringinshaw standard of proof did not apply?

2. Did the Court of Appeal err in determining there was no error of law where the primary Judge failed to apply the Briginshaw standard.

3. Did the Court of Appeal err in determining there was no error of law where the primary Judge accepted that the Briginshaw standard was the standard to be applied, however failed to apply it?

30 4. Did the Court of Appeal err in determining there was no error of law where the primary Judge failed to apply the civil standard of proof?

5. Did the primary Judge act beyond his judicial powers in making a psychiatric assessment of the Applicant?

6. Was the primary Judge prejudicial towards the Applicant?

7. Was there a denial of natural justice and procedural fairness resulting in an unfair trial?

40 8. Did the lower courts err in not determining breach of statutory duty by the Respondent?

9. Did the lower courts address the wrong questions?

10. Did the primary Judge err in not exercising his powers pursuant to s240 (4) of "the Act"?

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PART II – FACTUAL BACKGROUND

1997 The Applicant graduated from Monash University, Victoria.

1998 The Applicant worked as an intern at Frankston Hospital, Victoria (Annexure A)

1999 The Applicant passed reciprocity exams in Europe and worked as a doctor in Greece in Anaesthetics and in Intensive Care (Annexure B).

8 May 2002 The Respondent granted the Applicant General Registration with internship conditions pursuant to s57 of "the Act". Secondary to assessment by Board nominated psychiatrist Dr. D. Kippax (Annexure C) further conditions were issued on the Applicant probationary registration pursuant to s59 of "the Act".(Annexure D)

11 June 2002. The Respondent resolved that the Applicant complete a prescribed internship of six months, with a period of 12 weeks in surgery. An Information Notice was issued (Annexure E)

11 June 2002 The Applicant became an Intern at Townsville District Hospital. The Applicant worked excessive hours, that being a breach of Hospital Policy, under which she was employed (Annexure F and G) The Applicant was promoted by the hospital to RMO (resident medical officer) status (Annexure H and I).

14 January 2003 The Respondent considered notice of completion of internship and supporting documents by the Applicant, and resolved that it was not satisfied that the Applicant had completed 12 weeks in surgery, and extended the probationary condition on her registration for a further period of three months pursuant to s94 of "the Act". An Information Notice was issued (Annexure J)

14 April 2003 The Applicant forwarded a second notification of completion of Internship requirements pursuant to s91(1) of "the Act" (Annexure K) with supporting documents (Annexure L)

12 May 2003 The Applicant resigned from the Townsville District Hospital.

15/16 May 2003 Dr.K.Yuen on behalf of the Respondent investigated the Applicant at the Townsville District Hospital with a resulting document, "Visit to Townsville Hospital" (pg. 8 to 13 of Annexure M)

11 June 2003 The Applicant received a "Show Cause Notice" pursuant to s85 of "the Act" inviting her to make a submission as to why the Respondent should not cancel her registration (Annexure M)

13 August 2003	The Applicant responded to the "Show Cause Notice" (Annexure O)
4 November 2003	The Applicant received a letter from the Respondent with further "new" material and an invitation to make submissions (Annexure P) The Applicant responded to these new allegations (Annexure Q)
11 November 2003	A "decision" to cancel the Applicant's registration was made by Respondent which was not by an Information Notice.
26 November 2003	Reasons for the decision of 11 November were forwarded to the Applicant (Annexure R) The Respondent did not follow up on "decision" on 11 November and did not issue an Information Notice in respect to this purported cancellation within the required period.
9 December 2003	An appeal was lodged at the District Court of Brisbane against "decision" of 11 November 2003. The Respondent was of the opinion that the "decision" in November was not valid because the Applicant's registration had expired on 30 September 2003, therefore the right of appeal does not arise under the act. The Medical Board did not issue a notice to the Applicant as to the expiry of her registration pursuant to s 71 of "the Act" and had continued to treat her as though she was registered.
18 December 2003	Applicant filed notice for restoration of registration
27 January 2004	The Applicant's previous registration was restored pursuant to s79 of "the Act".
12 February 2004	Letter to Applicant regarding a new "Show Cause Notice" (Annexure S). It was agreed on behalf of the Applicant that if the Respondent could expeditiously deal with this new show cause notice and notice in response enabling application to lodge against any further order against her registration soon thereafter then the appeal of 9 December would be abandoned. The purpose of this arrangement was to avoid the District Court having to traverse the difficult issue of the Respondents jurisdiction in respect to the 11 November 2003 "decision".
16 February 2004	New Show Cause Notice was issued by the Respondent
12 March 2004	Reply to Show Cause Notice by Applicant
26 March 2004	The Respondent issued an Information Notice to cancel the Applicant's registration pursuant to s88(3) of "the Act" (Annexure T)
29 March 2004	Notice of Appeal by Applicant to District Court of Brisbane

The Respondent identified 7 "key" incidents underlying the decision to cancel the Applicant's registration as a medical practitioner[1].

11 May 2005 The learned primary Judge;[2]

(a) allowed the appeal from the Boards decision to cancel the Applicant's registration and set aside the Board's decision

(b) confirmed the Board's decision that the Applicant had not satisfactory completed internship requirements

(c) directed the Board to extend the probationary conditions for a period of one year by requiring her to undertake the prescribed internship and

(d) adjourned the further hearing of the appeal to allow further submissions as to any directions to be given to the Board under s240(1)(d) of the Act.

The primary Judge added[3]

21 June 2005 The learned primary Judge ordered the Respondent to pay 15% of the Applicant's costs and incidental to the appeal

12 July 2005 The learned primary judge confirmed the orders made on 11 May 2005, with an additional direction to the Respondent pursuant to s240(1)(d) of "the Act" that the Applicant undertake the prescribed internship at a hospital other than Townsville Hospital.
His Honour stated he had no power to exercise his powers under s240 (4) Of "the Act"

The Applicant appealed the decision of the primary court to the Court of Appeal, Brisbane.

15 August 2006 The Court of Appeal refused leave and ordered the Applicant to pay costs.

[1] **Key incidents: (Tsigounis v Medical Board of Queensland [2005] QDC 103) (11 May 2005)**
-the "meningitis" patient (27 January 2003) (most serious complaint relied upon)
-the cannulation of children: an incident involving Nurses Bailey and Haley (2 September 2002), an incident involving Nurse Steer (September 2002), an incident involving Dr. Hodges (October 2002) and in incident involving Dr. Elcock and Nurses Maloney and Buldo (28 October 2002 to 31
-the lumbar lamenectomy patient/dieuretic incident involving Dr. Lucas (20 February 2003)
-the blood coagulation profile involving incident Dr. Balanathan (19 February to 9 March 2003)
-the phone order for potassium, also involving Dr. Balanathan (24 February to March 9 2003)
-the drug administration/ intubation incident involving Dr. Gelhaar (mid-January 2003)
-the morphine/ Maxalon incident involving Nurse Weber (23 April 2004)

[2] Tsigounis v Medical Board of Queensland [2005] QDC 103 (11 May 2005)

[3] Para 298, Tsigounis v Medical Board of Queensland [2005] QDC 103 (11 May 2005)
"during the prescribed internship Dr. Tsigounis should submit to and undergo such psychiatric treatment as is considered appropriate by the Board with regular reporting to the Board by the treating psychiatrist/s during the prescribed internship there be such mentoring and supervision as is considered appropriate by the Board, together with contemporaneous advice to Dr. Tsigounis of any perceived deficiencies in the performance of her internship and definitive assessment of her progress".

PART III- SUMMARY OF ARGUMENT

MANIFEST ERRORS OF LAW IN THE COURTS BELOW

(A) STANDARD OF PROOF

The Court of Appeal erred in determining that the standard of proof articulated by the High Court in Briginshaw v Briginshaw[4] did not apply

1. The Queensland Court of Appeal decision in *Tsigounis v Medical Board of Queensland 2006 QCA 295* at paragraphs 75 – 79 stated that the standard of proof required in determination of this case was not the Briginshaw standard.

2. In concluding that the Briginshaw standard did not apply, Keane J stated that this case "*did not involve a serious consequence, such as striking off a registered medical practitioner whose entitlement to practice has previously been established. Rather the case was concerned with whether the applicant had completed requirements necessary to be granted unconditional registration*[5] ".

3. It is considered that in applying the Briginshaw standard the following factors as stated by the learned primary Judge[6] confirm that the matter at hand does indeed involve a serious consequence:

- Serious allegations of professional incompetence are levelled against the Appellant.
- If resolved adversely to the Appellant they are to impact severely on her standing, reputation, career and livelihood.
- No greater penalty could be suffered by a medical practitioner than deregistration which is the Medical Board's position and the subject of the Appeal
- If the findings made by the Board stand, the Apellant will find it extremely difficult if not impossible to obtain future employment as an intern and her registration as a medical practitioner in Greece would be at risk.

4. The primary judge made findings of unsatisfactory professional conduct including incompetence, negligence and lack of judgment. The primary judge made findings that the Applicant's treatment of patients placed them at serious risk[7]

5. There is extensive case law supporting the application of the Briginshaw standard in matters of unsatisfactory professional conduct[8].

[4] Briginshaw v Briginshaw (1939) 60 CLR333
[5] Para 76-77 of Tsigounis v Medical Board of Queensland [2006] QCA 295 (15 August 2006)
[6] Para 28 of Tsigounis v Medical Board of Queensland [2005] QDC 103 (11 May 2005)
[7] Para 117-122 of Tsigounis v Medical Board of Queensland [2005] QDC 103 (11 May 2005)
[8]

- Ooi v Medical Board of Queensland [1997] 2 Qd R 176
- Hewett v Medical Board of Western Australia [2004] WASCA 170
- Basser v Medical Board of Victoria (1981) VR 953
- Merecer v Pharmacy Board of Victoria (1968) VR
- Pillai v Messiter [1989] 16 NSWLR 197
- Medical Board of Queensland v Cooke [1992] 2 Qd R.608
- Clyne v New South Bar Association [1960] 104 CLR 186
- Sinha v Health Care Complaints Tribunal [2001] NSW CA206
- Purrel v Medical Board of Queensland [1997] QCA 253
- Eckersley v Medical Board of Queensland [1996] QCA 528
- Adamson v Queensland Law Society Incorporated [1990] QDR 498
- Medical Board of Queensland v Bayliss [1999] QCA 059
- Adamson v Queensland Law Society included [1990] IQd 498
- Bannister v Walton (1993) 30 NSW LR 69
- New South Bar Association v Evatt [1968] 117 CLR 177

An error of law is found in the Learned primary Judge's consistent misapplication of the Briginshaw standard of proof.

6. His Honour, while recognising that the requisite standard of proof was the Briginshaw standard[9] misdirected himself in applying it.
The features of the primary Judges' approach which support this contention include:

- A failure to give any weight to the seriousness of the allegations made, or the gravity of the facts to be proved, by the Respondent ;

- The resolution of the contested issues of fact against the Applicant, in numerous instances where the dispute was between the Applicant's testimony and the uncorroborated word of another;

- The resolution of contested issues of fact (including matters of expert opinion) against the Applicant, without any, or any adequate explanation for the preference given to some witnesses (including expert witnesses) over others; and

- A failure to give any weight to the inherent unlikelihood of the Respondent's account having regard to the uncertain and inexact status of material factual allegations.

7. The gravity of the case required that the Board's evidence be placed under the most critical scrutiny. In applying the Briginshaw standard it is recognised, as was accepted by the learned trial Judge that in applying Briginshaw[10] "the matter should not be approached with hindsight or by the drawing of indirect inferences and that the evidence relied on by the Board must be precise and cogent, not loose and inexact, and the allegations should be approached cautiously. I also recognise that "*mistakes can happen to the most conscientious professional person*" (Kirby P., Pillai v Messiter (1989) 16 NSWLR 197 at 202.)

An error of law is found in the learned primary Judge's misapplication of the civil standard of proof.

8. The learned primary Judge erred in that:

- His Honour made findings of fact which were not supported by the evidence, whereby either there was no evidence or to the extent there was "evidence" it was both technically inadmissible and /or lacking in any probative weight.

- where the evidence was in conflict, (especially with respect to matters of expert opinion) failing to articulate any reasoned or intelligible basis for accepting one body of evidence in preference to another (consistently accepting the body of evidence in favour of the Board's case) without any regard to

(i) numerical weight of witnesses favouring the Applicant

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[9]Para 28-31 of Tsigounis v Medical Board of Queensland [2005] QDC 103 (11 May 2005)
[10]Para 28 of Tsigounis v Medical Board of Queensland [2005] QDC 103 (11 May 2005)
[11]Para 224-238 of Tsigounis v Medical Board of Queensland [2005] QDC 103 (11 May 2005)

(ii) the weight of testimony from witnesses called by the Respondent who gave evidence favourable to the Applicant

(iii) other factors affecting the credit of testimony given by witnesses called by the Respondent

(iv) the Applicant's evidence

- His Honour accepted evidence that was lacking in probative weight, or was otherwise inadmissible

- His Honour substituted his own amateur diagnostic skills for expert evidence (in relation to the psychiatric issue)

- His Honour rejecting, or simply failing to have regard to the evidence of the Applicant and evidence supporting her even when there was no evidence to the contrary

9. His Honour's failings impacted on the final decision resulting in a miscarriage of justice. The only conclusion reasonably open on the evidence, let alone correctly applying the Briginshaw or civil standard of proof, would have been a finding to the effect that the Applicant had satisfactory completed internship requirements in accordance with Information Notice dated 21 June 2002.

(B) THE LEARNED PRIMARY JUDGE ACTED BEHOND HIS JUDICIAL FUNCTION IN MAKING A PSYCHIATRIC/PSYCHOLOGICAL ASSESMENT OF THE APPLICANT[11]

10.His Honour's assessment of the Applicant exceeded judgment of what could reasonably be determined on the basis of her demeanour as a witness.
His Honour substituted his amateur diagnosis of the Applicant for expert evidence and directed that further psychiatric conditions should be imposed[12]

11.Psychiatric evidence before the court did not sustain the imposition of psychiatric conditions.

12.His Honour was inconsistent in his approach towards this issue.

13.In his Honour's Judgment of the 12 July 2005[13], His Honour concludes he has no power to decide on this issue.

It was open to His Honour to make a decision pursuant to s240 (4) of "the Act".

(C) NATURAL JUSTICE AND PROCEDURAL FAIRNESS

Denial of Legal Representation/ Adjournment

14. His Honour fell into error by denying the Applicant legal representation and by not offering the Applicant an adjournment to obtain legal representation.

[11] Para 232-238 of Tsigounis v Medical Board of Queensland [2005] QDC 103 (11 May 2005)
[12] Para 298 of Tsigounis v Medical Board of Queensland [2005] QDC 103 (11 May 2005)
[13] Tsigounis v Medical Board of Queensland (2) [2005] QDC 103 (12 July 2005)

15. On day one of the hearing, Mr. Franzese a legal practitioner admitted in Victoria but not in Queensland appeared for the Applicant.
The Legal Profession Act 2004 confers pursuant to Division 2 section 47 an entitlement to an Australian legal practitioner to engage in legal practice in the jurisdiction.

16. It was open to his Honour pursuant to s52 of the District Court of Queensland Act to grant leave to enable Mr. Franseze to appear. His Honour refused leave, thereafter the Applicant appeared in person, and did so for the first three days of the hearing.

17.The governing principles concerning adjournment to obtain legal representation as stated in Dietrich v The Queen[14] apply in this case. Similarly in State of Queensland v J.L. Holdings Pty Limited[15], Sullivan v Department of Transport[16] and Haset Sali v S.P.C Limited and Anor[17] are to the like effect.

Conduct of Hearing

18. The conduct of the hearing in the primary court is governed by s 239 of "the Act"
Whilst s239(1) states that the court is not bound by the rules of evidence, observation of the principles of natural justice and the application of an appropriate standard of proof mean that the manner in which the proceedings in the lower court proceeded otherwise offended the section.

19. Witnesses were called out of sequence and the Applicant persistently objected

20. The learned primary Judge admitted and acted upon hearsay where it was prejudicial to the Applicant but on other occasions rejected hearsay which may have been beneficial to the Applicant.

21. The hearsay evidence was extensive (Annexure U)

22. The admission of hearsay evidence is incompatible with the *Bringinshaw* standard which his Honour purported to apply.

23. The extent to which his Honour permitted leading questions prejudiced the Applicant and amounted to procedural unfairness.

24. His Honour adopted a role of intervention which was excessive and prejudicial to the applicant to an extent which amounted to procedural unfairness.

25. The Applicant's role of advocate, which initially was forced upon her, resulted in further procedural unfairness. The Court, and on occasions at the urging of the Respondent, made reference to the Applicant's questioning, submissions and conduct in Court as being tantamount to evidence.

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[14]Dietrich v The Queen (1993) 177 CLR 292 per Mason CJ and McHugh J at 314 and 315
[15]State of Queensland v J.L/ Holdings Pty Limited (1997) 189 CLR 146 in the majority comprising Dawson, Gaudron and Mc Hugh J.A at 155 and Kirby by J at 172
[16]Sullivan v Department of Transport 20 ALR 233, per Deane J at 343
[17]Hasset Sali V.S.P.C Limited and Anor (1993) 116 ALR 625,

26. There is an obligation that a Judge adheres to procedural fairness, as stated in the Kioa v West[18], Studer v Konig[19] and Stead v State Government Insurance Commission[20].

(D) BREACH OF STATUTORY DUTY BY THE RESPONDENT AND MOTIVE THAT EMERGES FROM THE EVIDENCE

27. Denial of procedural fairness and failure of the Respondent to act in accordance with the Act (reference is made to Part II of this document)

28. Complaints and statements were obtained over an unfairly extended period and were first presented to the Applicant up to 18 months following the event (Annexure V).

29. Many of the complaints and statements resulted from direct solicitation by solicitors acting for the Respondent. Nurse Weber and Nurse Lawty (like many of the witnesses called by the Respondent) explained that they were approached by solicitors acting for the Respondent up to one year after the Applicant resigned from the hospital and were given envelopes stating that there were court proceedings and were asked to document any errors or concerns.

30. Statements and complaints were made that were factually incorrect, misleading and/or defamatory in nature (Dr. K. Yuen) (pg. 8-13 of Annexure M), Dr. D. Cooksley (Annexure W) Dr. M. Elcock (Annexure X), Dr. N. Small (Annexure Y) and Dr. J. Ashley (Annexure Z).This is despite the fact that all of the above witnesses had access to the correct information including the medical files of the patients in question at the time of their statement.

31. The June 11 Show Cause Notice is selective and does not include favorable formal assessments that were before the Respondent at the time.

32. Robyn Scholl from the Respondent passes on incorrect information to the PMEFQ (Post Medical Education Foundation of Queensland) (Annexure A2), despite having the correct information before her (Annexure A3, I). The Respondent then uses the opinion of the PMEFQ as corroborative evidence in the June 11 Show Cause Notice (refer to para. 13, pg. 6 of Annexure N)

33. Dr. A. Coley changed his report in relation to the Applicant 1 year later (Annexure A4).

34. Expert witnesses identify "motive".

35. Professor P. Dewan states: "Helen appears to be the scapegoat of a system under stress" (Annexure A5).

PART IV

(1) The proposed special leave appeal involves errors of law, important questions of justice and is one of considerable gravity.

[18] Kioa v West (1985) 169 CLR 550 per Mason J at 583, 684 and 585
[19] Studer v King SC (NSW) June 1993, Butterworths BC9301722
[20] Stead v State Government Insurance Commission (1986)

The adverse findings made by the primary Judge regarding the Applicant's professional competence and reputation both generally and as a member of her profession have essentially barred her from her chosen profession.

(2) The errors of law have resulted in a miscarriage of justice and an erroneous decision.

(3) Denial of natural justice and procedural fairness have resulted in an unfair trial.

PART V- COSTS

10 The cost orders in the lower courts were erroneous in principle.
The Respondent at all times maintained that the Applicant should not practice as a doctor.
That the Applicant's costs and incidental to the appeals be paid by the Respondent.

PART VI- TABLE OF AUTHORITIES AND LEGISLATION

District Court of Queensland Act 1967 (QLD)
Legal Profession Act 2004
20 Medical Practitioners Registration Act 1967 (QLD)
Adamson v Queensland Law Society Incorporated [1990] QDR 498
Bannister v Walton [1993] 30 NSW LR 69 [2005] QDC 103
Basser v Medical Board of Victoria [1981] VR 95-3
Briginshaw v Briginshaw [1939] 60 CLR 333
Clyne v New South Bar Association [1960] CLR 186
Eckersley v Medical Board of Queensland [1996] QCA 528
Haset Sali VSPC Limited and Anor [1993] 116 ALR 625
Hewett v Medical Board of Queensland [2004] WASCA 170
Kioa v West [1985] 159 CLR 550
30 Medical Board of Queensland v Bayliss [1999] QCA, 059
Medical Board of Queensland v Cooke [1992] 2 Qd R 608
Merecer v Pharmacy Board of Victoria [1968] VR
New South Bar Association v Evatt [1968] 117 CLR 177
Ooi v Medical Board of Queensland [1997] 2 Qd R 176
Pillai v Messiter [1989] 16 NSW LR 197
Purrell v Medical Board of Queensland [1997] QCA 253
Sinha v Health Care Complaints Tribunal [2001] NSW CA 206
State of Queensland J.L Holdings Pty Limited [1997] 189 CLR 141
Stead v State Government Insurance Commission [1986] 161 CLR 141
40 Sullivan v Department of Transport 20 ALR 233
Tsigounis v Medical Board of Queensland [2005] QDC 103
Tsigounis v Medical Board of Queensland (No 2) QDC 103
Tsigounis v Medical Board of Queensland (No 3) [2005] QDC 103
Tsigounis v Medical Board of Queensland [2006] QCA 295

PART VII- The Applicant wishes to supplement this submission with oral argument.

Dated 2 November 2006

H. Tsigounis
Applicant

ANNEXURES

1. Annexure A, Frankston Hospital, Victoria.
2. Annexure B, Applicant's Work in Greece.
3. Annexure C, Report by Dr D. Kippax.
4. Annexure D, Information Notice dated 21 June 2002
5. Annexure E, Applicant's Employment Records at the Townsville Hospital
6. Annexure F, Resident Medical Officers Award at Townsville Hospital
7. Annexure G, Article on Sleep Deprivation and Cognitive Function
8. Annexure H, Townsville Hospital Payroll Employment History of the Applicant
9. Annexure I, Letter by Dr B. Hodges to the Respondent
10. Annexure J, The Townsville Hospital Resident Medical Officers Information Manual 2002 (meaning of JHO).
11. Annexure K, Information Notice dated 29 January 2003.
12. Annexure L, Notification of Completion of Internship Requirements.
13. Annexure M, Formal Assesments of the Applicant.
14. Annexure N, Show Cause Notice dated 11 June 2003.
15. Annexure O, Response to Show Cause Notice by Applicant.
16. Annexure P, Further Material from the Respondent.

17. Annexure Q, Response by Applicant to Further Material.

18. Annexure R, Reasons for Decision by Respondent dated 26 November 2003.

19. Annexure S, Letter from Respondent dated 12 February 2004.

20. Annexure T, Information Notice dated 26 March 2004.

21. Annexure U, Statements and Affidavits containing Hearsay Material.

22. Annexure V, Show Cause Notice dated 16 February 2004.

23. Annexure W, Affidavit of Dr D.Cooksley.

24. Annexure X, Statement to Affidavit of Dr M. Elcock.

25. Annexure Y, Affidavit of Dr N. Small.

26. Annexure Z, Affidavit of Dr J. Ashley.

27. Annexure A2, Email from Robyn Scholl to Susan Hoy.

28. Annexure A3, Documents before the Respondent regarding Applicant's Work at Frankston Hospital and Greece.

29. Annexure A4, Affidavit of Dr A. Coley

30. Annexure A5, Letter by Professor P.Dewan dated 31 January 2005.

Attachment 11

HIGH COURT OF AUSTRALIA

OFFICE OF THE SENIOR REGISTRAR
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KINGSTON ACT 2604
http://www.hcourt.gov.au

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DX 5755 Canberra
abn: 69 445 188 986

Our Ref:
Your Ref:

25 May 2007

Ms Helen Tsigounis
34 Inkerman Street
ST KILDA VIC 3182

Dear Madam

Re: Tsigounis v Medical Board of Queensland (B29/2006)

This application was listed before the Court, constituted by Justices Hayne and Crennan, on Thursday, 24 May 2007 in Canberra for the publication of reasons and pronouncement of orders.

Pursuant to rule 41.10.5 of the High Court Rules 2004 the Court directed the Registrar to draw up, sign and seal an order that the application is dismissed. I enclose a copy of the sealed order of the Court.

The reasons published by the Court are recorded in the transcript of the proceedings which will be available from the High Court website at *http://www.hcourt.gov.au* or from *http://www.austlii.edu.au/au/other/hca/transcripts/recent-transcripts.html*.

Yours faithfully

Carolyn Rogers
Senior Registrar

Encl: Sealed Order