

6th August 2012

Queensland Health

The Chief Executive Officer

GPO Box 48 Brisbane, Queensland 4001

RE: MEDICAL NEGLIGENCE CASE. 20TH JANUARY 2000

LOCATION: LOGAN HOSPITAL – TRANSFERRED TO THE MATER HOSPITAL 22.1.00

INCIDENT: ACCIDENTAL PLACEMENT OF 400mls 3% GASTROGRAFFIN INTO LEFT LOWER LOBE OF LUNG WHILST SUFFERING PRE-EXISTING PANCREATITIS.

Dear Sir/Madam,

As you are no doubt aware in December of 2012 I approached my local state member of parliament, Evan Moorhead, to discuss my medical negligence issue. He in turn wrote to Queensland Health and received a reply from the district solicitor. I have included a copy of the response and would like to comment on a number of errors.

- 1) It is correct that I made a complaint to the Health Rights Commission but it was **not** thoroughly investigated. The “expert” medical opinions obtained by Queensland Health were not accurate. Two reports obtained by your medical “experts” were based on the Logan Hospital records alone - without having obtained the Mater Hospital records.

How is it possible for these “experts” to give an accurate medical opinion without having all of the relevant records?

You also mention in your letter “expert medical opinion was obtained, which **did not** find Logan Hospital liable”. Yet I have correspondence received from my lawyer that states “**Queensland Health acknowledges a breach of duty by it’s staff and the only matter in issue is the affect of that breach of duty on you**”. Also comments from **Dr Irene Campbell-Taylor** (Clinical Nuro-Scientist) leave no doubt that The Logan Hospital were liable for not checking the position of the naso-gastro tube prior to insertion of the gastrograffin.

“The fact remains that the hospital made a serious error in placing a foreign substance into your lung causing subsequent significant problems starting with admission to ICU because of their error”

“Nursing notes indicate pulse rate rising to 170, skin “dusky” indicating not enough oxygen, You were admitted to ICU because of the lung injury. Chart at this point said “aspiration” event but it

was not – it was an error in that the Gastrografin was injected directly into your lung causing you to have increased breathing rate, increased blood pressure and oxygenation of only 80% (or less) of what it should have been normally”

“You already had pancreatitis BUT the placement of Gastrografin directly into your lung could have been fatal, did cause lung injury (as indicated in the notes), and MAY have worsened the pancreatitis”.

“Please excuse me if my recollection is wrong but was the NG tube placed in your lung instead of into your stomach? If so, this is gross negligence. Placement of NG tubes MUST be checked by xray”.

With these comments in mind how can Logan Hospital deny any liability?

- One question put to **your** expert Dr Fisher (Clinical Professor of Anaesthesia/Medicine) was “Would the gastrografin placement into my left lung have affected my pre-existing acute pancreatitis?”
His response was *“It is theoretically possible that it would make the pancreatitis worse, and would make the prognosis worse”.*

Also from **Dr Irene Campbell-Taylor** (Clinical Neuro-Scientist):

“It is common knowledge that hypoxia may occur as a result of acute pancreatitis. It seems to me that hypoxia caused by the Gastrografin in the lung could only make this tendency worse. In other words, in a patient with acute pancreatitis, every effort should be made to see that there is no possibility of hypoxia developing for other reasons. The opposition would, no doubt, try to claim that the hypoxia was as a result of the pancreatitis but the dates of the instillation of the Gastrografin (from your hospital notes) should prove that to be false”

Matthew Carmody (General Surgeon – Mater Hospital) stated my secondary condition as “chemical pneumonitis” – **“severe hypoxia due to gastrografin aspiration”**. So in his opinion he states that my severe hypoxia was a direct result of the gastrografin insertion and not my pre-existing acute pancreatitis. It is well documented that introducing hypoxia into a patient already suffering acute pancreatitis can be disastrous.

Have you chosen to ignore these comments?

I did bring a personal injuries claim against Queensland Health in late 2002 and my medical opinions did find that Logan Hospital **were** negligent by not viewing the position of the naso-gastric tube prior to the insertion of Gastrografin into my left lung.

Both the reports from **Dr Roche** (obtained by me) and **Dr Malcom Fisher** (obtained by HRC) agree that the installation of the gastrografin would have had an adverse effect on my pancreatitis. Dr Roche explained it as follows” ***A person such as myself, who was sick with pancreatitis, needed all***

of my resources to fight the illness, and therefore losing one fifth of my lung capacity, due to the instillation of gastrograffin, had to make my situation worse by making me less able to combat the pancreatitis”.

It is obvious to myself & the medical experts that Queensland Health are negligent but are hiding behind the fact that I am unable to find an expert who is willing to quantify to what extent their mistake contributed to my overall condition. I feel this is extremely unfair as they are well aware of the dangers of administering gastrograffin into the lung and its consequences – especially from someone already suffering acute pancreatitis!

*“Once pancreatitis has been initiated vascular events seem to play a major role in its propagation”.
“Factors which impair pancreatic blood flow are capable of converting a mild pancreatitis into a more severe form of the disease”.*

David W Rattner & Andrew L Warshaw

*“From the Logan Hospital medical notes it appears that the patient’s condition deteriorated significantly approx twelve hours after the insertion of the gastrograffin”. “The patient’s deterioration **appeared to be predominantly respiratory** and the deterioration would appear to be due to hypoxia and thus it would be hard to dissociate from the fluid in the lung”.*

Dr J Roche – Associate Professor of Radiology

“Any hypoxia will adversely affect an inflammation such as pancreatitis to varying degrees, depending on the severity of the condition and the degree of pancreatitis”.

Dr Irene Campbell – Taylor – Clinical Neuro-Scientist

- 2) I, or my previous lawyer have had **no** correspondence from Queensland Health advising that my file had been closed.
- 3) I, or my then lawyer, Jonathan Whiting have never wrote to the Director General advising that my claim was at the expert stage and seeking \$1.2 million and offering to settle for less. This is **totally incorrect** and I would like to know where you obtained this information!

On the 24th October 2011 I did write to Queensland Health with a list of my estimated financial losses as well as an estimate for my pain and suffering, which amounted in total to **\$2,187,627**. I advised that as so much time had passed and that I wanted to put all of this behind me, that I would

accept the sum of **\$300,000** for settlement. This is the only time over the past 12 years that I have mentioned an amount to settle!

You state in your letter to state member Evan Moorhead, that “It is difficult for Queensland Health to settle a claim with taxpayers money unless they can show a legal liability” well we may have to let the taxpayer know all the facts of my case and let them decide! I feel I have been extremely fair and reasonable with my offer considering I now have no pancreas, rely on huge amounts of insulin and tablets to control my blood sugar, have lung issues & have a ugly distended abdomen.

You would be well aware of the effects of Gastrograffin placement into the lungs but you are choosing to ignore the facts and trying and put my whole condition down to an unfortunate episode of acute pancreatitis. You would also know that it would be next to impossible for me to find an expert willing to quantify the damages.

Before I take this to the media I would like you to clarify that Queensland Health are not prepared to offer me **anything** for the mistake that they made. Even after reading the above comments from experts and investigating the effects of gastrograffin instillation into the lung.

I await your response.

Yours faithfully

Terry Lindsay

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Queensland Health

12 SEP 2012

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Mr Terry Lindsay
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Dear Mr Lindsay

I refer to your letter dated 6 August 2012, regarding your claim against Logan Hospital. I also refer to previous correspondence including the letter to you dated 24 October 2011 from Ms Susan Hefferan, Legal Counsel, Metro South Hospital and Health Service. I now respond to the matters you have raised in your latest letter as follows, following your numbering system:

- (1) your dissatisfaction regarding the thoroughness of the former Health Rights Commission's (HRC) investigation as contained in your letter dated 6 August 2012, is noted and was also noted from your letter of 22 May 2010 (sic), received 30 May 2011. I also note your dissatisfaction was acknowledged by the Health Rights Commission in the Office's report on the conciliation proceedings in 2003;
- (2) as advised to you in earlier correspondence, lawyers acting for the State of Queensland closed the file in 2004 because you did not pursue your claim. Such action by a respondent to a claim does not require communication to the claimant and does not affect the claimant's ability to re-institute proceedings if, at his/her absolute discretion, he/she sees fit; and
- (3) as you have noted, in previous correspondence, you have estimated your claim at approximately \$2.1 million. I expect that the figure of \$1.2 million as stated in correspondence to Mr Evan Moorhead was a typographical error.

I believe all of your concerns have been addressed.

Should you require further information, please contact Ms Hefferan on telephone 3299 8380.

Yours sincerely



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