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## **Standing Committee on Finance & Public Administration Inquiry into Public Hospital Performance Data**

Terms of Reference: To inquire into and report on the capacity of hospitals to meet demand, standards and quality of care, resourcing and access levels, and the accuracy and completeness of performance data for Victorian public hospitals.

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Dear Sir,

The terms of reference for the inquiry into public hospital performance data read: to inquire into and report on the capacity of hospitals to meet demand, standards and quality of care, resourcing and access levels, and the accuracy and completeness of performance data for Victorian public hospitals.

I am willing, and would wish, to speak to the committee.

My concerns are that:

1. A government minister, Mr John Thwaites, could wreak havoc and threaten a public hospital based only on hearsay.
2. Mr Thwaites has never made public that I was exonerated by the Medical Practitioners Board of Victoria.
3. The Royal Melbourne Hospital has been too scared to announce that a patient initially believed to have Creutzfeldt-Jakob disease (CJD) indeed does not have CJD, for fear of adverse treatment and funding by the Department of Human Resources.

## Case History

73 year old patient P.M. is a tragic story. He has languished in an outer metropolitan Melbourne nursing home bed for over eight years, undiagnosed, untreated and deserted by his family, all because of political interference at the highest levels. John Thwaites, the Victorian Health Minister in 2000, tried to gain some cheap political points over an alleged breach of operating theatre protocol concerning a case of possible Creutzfeldt-Jakob disease (CJD) at The Royal Melbourne Hospital (RMH). What resulted was the medical mismanagement of PM, threats by John Thwaites to close the Neurosurgery Department and withdrawal of allocated finances to The RMH, my resignation and move to Perth, and my subsequent hospitalisation for severe depression.

It is now obvious that PM does not have CJD – he wouldn't be alive. However, it was also obvious in 2000 that he did not have CJD.

PM had a neurologic illness that still defies diagnosis. He was referred by the RMH Neurology Department to me for a brain biopsy. The Neurology Department had not done any tests to exclude CJD, primarily because it had not thought that PM could have CJD. However they did fail to diagnose that he had hydrocephalus (excessive water in the brain). Therefore I not only performed the requested brain biopsy, but also inserted a shunt to drain the hydrocephalus. The pathology report returned a diagnosis of possible CJD. All hell broke loose. This was front page news in The Age on 5/5/2000. Somebody within RMH (I believe this to be the nurse in charge of neurosurgery theatres) informed the Health Department/Department of Human Resources that there had been a breach of CJD protocol because I had not taken CJD precautions. (Whenever a patient with possible CJD is taken to theatre there is a standard protocol followed.) I did not do this because neither the neurologists nor I suspected CJD, and in fact we all thought that it was extremely unlikely that the patient had CJD. PM definitely had an inflammatory brain disease of some sort; CJD is not an inflammatory condition. A brain biopsy would help to determine what sort of disease he had – probably a vasculitis (blood vessel inflammation) of some sort - and therefore proceed to appropriate treatment. I certainly considered following the protocol, but if I had, it would have meant the cancellation of another patient, possibly two, on my theatre list, because of the extra time (two hours) that would have been needed to prepare the theatre before and after surgery. I deliberately did not inform the nursing staff after the surgery that we should have quarantined the instruments used on PM because it would have only resulted in hysteria and criticism for having to sequester \$150,000 of instruments until CJD was disproven, a process that takes several months. To this day these instruments remain quarantined. The RMH received a reimbursement for these instruments from the Health Department.

One has to understand the unique problems of CJD and the operating environment. CJD behaves like an infection. It can be transmitted between patients. However there have only been a couple of reports of transmission, occurring from the reuse of implanted brain electrodes in another patient. CJD is a very resistant protein. It is not your standard infective agent such as a bacterium or virus. After instruments that have contacted CJD have been sterilised by the standard techniques, the CJD particles are still believed to be present. No technique is known to destroy the proteins, although it has never been shown that the persisting proteins are transmissible after standard sterilisation. Therefore, any such instruments are disposed of. (However, it is very likely that simple mechanical scrubbing will remove the particles, which was probably not done properly in the reported cases of CJD transmission.) There has never been a proven case of CJD transmission after the simple reuse (as opposed to implantation) of instruments. There have been rare reports of transmission of CJD after brain electrodes were reimplanted in other patients. The only certain means of diagnosis of CJD is a brain biopsy. There are other indirect tests such as EEG (electroencephalography) and spinal fluid analysis (looking for protein 14-3-3), neither of which had been done by the Neurology Unit prior to

referral to me. Brain MRI has certain features, none of which PM had. Such positive tests combined with a typical clinical picture can make the diagnosis. The brain biopsy that I had taken was subsequently reviewed by Dr Catriona McLean, pathologist to the CJD Registry at Melbourne University. She informed me that there was no evidence of CJD on the biopsy and that the RMH pathologist had misinterpreted certain changes, which were in fact artefactual. With no positive diagnosis of CJD the only way of excluding the diagnosis in PM was to wait until an autopsy. However, if PM had CJD he should have died within months. PM is on the Australian CJD Registry, based at Melbourne University. Upon his death he is meant to have an autopsy for a final statement to be made as to whether he has CJD. Dr Steven Collins is the neurologist to the Registry and has assured me that PM is being followed and will have an autopsy.

Immediately prior to this incident John Thwaites had been critical of various Victorian hospitals' breaches in infection control, particularly outbreaks of golden Staph MRSA. Upon hearing of the CJD case John Thwaites declared in parliament (4/5/2000) that he would not tolerate such breaches. He subsequently reported me to the Medical Practitioners Board of Victoria (MPBV). In August 2000 I was exonerated by the MPBV, but in the interim I was placed on intolerable restrictions by The RMH and I subsequently resigned in July 2000 – without ever having had a hearing at RMH. I was forced to move to Perth in January 2001, leaving all of my family and friends in Melbourne. John Thwaites was informed by the MPBV that I had been exonerated. It is disappointing that he was very vocal about the alleged breach but did not make the outcome of investigations public. Both The RMH and I should have been cleared publicly. It would therefore seem that John Thwaites was really only interested in scoring political points rather than health care.

Immediately after the news of the CJD scare the Professor of Neurosurgery at RMH, Andrew Kaye, informed me and the Neurosurgery Department that John Thwaites had demanded my immediate dismissal, prior to any investigations or hearing. The RMH refused, and instead placed me on severe restrictions, including supervision by colleagues. We were also told that John Thwaites (or a representative from the Health Department) had threatened Andrew Kaye with closure of the Neurosurgery Department, suspension of current renovations of the Grattan Street hospital entrance, and denial of \$7 million that had been requested by the RMH for a helipad. These threats made to Andrew Kaye were announced by him in group meetings with other RMH neurosurgeons. The RMH asked me to pay \$150,000 to replace the quarantined instruments. I acquiesced, however he later told me that this payment was not necessary. Andrew Kaye was very concerned about potential loss of funds to his department and the RMH. He was very keen that there be no criticism of the Health Department. He met privately with John Thwaites for a few hours early after the incident.

Twelve RMH patients were unnecessarily informed that they may have been exposed to CJD. This information was premature but was precipitated by Mr Thwaites. This caused significant stress to a number of these patients and their families. I am aware that one family threatened to sue The RMH.

Once the CJD scare was raised PM became a pariah. The shunt that I had inserted was not functioning. I informed the Neurosurgery Department of this and was criticised for suggesting that I should take PM back to theatre. He was never returned to theatre for the necessary shunt revision. PM remained under the Neurology Unit and was quickly transferred out of RMH. No further investigations were done to try to diagnose his illness, because it was thought that his diagnosis of CJD was a *fait accompli*. I informed a number of neurologists and treating doctors that PM should have his shunt revised, but I got nowhere. I even offered to do this privately at Epworth Hospital at my own expense. PM has subsequently remained confined to bed because of his inability to walk and has developed severe, irreversible limb contractures. Today he remains alert and conversant but non-ambulant.

In an attempt to put a lid on the CJD incident at The RMH the hospital refused to have any meetings to discuss the case, as would otherwise be usually done with any interesting clinical case. There was never a clinical meeting to discuss PM or to discuss the machinations of the theatre procedure. In fact, the neurosurgeons were formally forbidden to discuss the case outside our own private neurosurgery meetings. I was forbidden to talk at the subsequent Association of Melbourne Neurosurgeons meeting, which did raise the case. Instead, in my presence, other RMH neurosurgeons spoke on my behalf.

Following the incident there was a major fallout between the Neurosurgery Department and me. I had to cease public hospital work. I had been the consultant neurosurgeon for over seven years at the Peter McCallum Cancer Institute, which asked me to leave. The situation was such that I had to leave Melbourne, and moved to Perth in January 2001. I left all of my family and friends in Melbourne. This move was quite traumatic in itself. I found that practice in Perth was very difficult. In April 2001 I ended up severely depressed, suicidal and spent a week in a psychiatric hospital.

I contacted the Victorian Freedom of Information Office and was told that I could not have access to the relevant RMH records on the grounds that this was sensitive information with the potential to harm individuals.

I have no complaints about The Royal Melbourne Hospital. My complaint is against Mr John Thwaites. He threatened The RMH and forced it to handle the incident improperly and before the incident could be fully assessed. His abuse of his privileged position should be made known to the Victorian public. The public should also know that The RMH and I did not mismanage the case of PM.

I have gradually managed to pick up the pieces, but my family and I continue to be reminded of the CJD incident in one way or another. We need closure.

Yours faithfully

EMIL POPOVIC