

Australia: Incompetent surgeon jailed for manslaughter

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Dr Jayant Patel, 60, was sentenced to seven years' jail on July 2 after he was found guilty in the Queensland Supreme Court of killing three of his patients—Gerry Kemps, 77, Mervyn Morris, 75, James Phillips, 46—and maiming 62-year-old Ian Vowles. The former American-based doctor was head of surgery at the Bundaberg Base Hospital from 2003 to 2005. He was charged after his treatment of 87 patients at the Queensland regional medical facility were investigated in 2005.

Despite the widespread media coverage, there was no examination of the fact that the kind of cost-cutting policies that helped create the conditions that led to Dr Patel's employment and the consequent tragedies at Bundaberg Hospital are now being implemented nationally. Part of the federal Labor government's National Health and Hospital Network Plan announced in March involves the establishment of a new centralised hospital funding mechanism which aims to slash per patient costs by pressuring doctors and surgeons to restrict treatment and speed up the processing of the sick and injured.

Patel was hired in 2003 to work at Bundaberg Hospital under its "area of need" program that hires overseas-trained doctors to work on lower rates of pay in regional areas desperately short of medical practitioners.

While Patel had been the subject of several investigations and disciplinary action by US medical authorities, local hospital administrators and Queensland Health didn't bother to examine his work record. Their primary concern was his ability to drive up the number of surgical procedures at Bundaberg.

As Queensland Australian Medical Association (AMA) chief Dr David Molloy told a state inquiry in 2005, Patel was "a beancounter's dream". His ability

to perform so many procedures, many of them quite complex, Molloy said, brought lots of money to the hospital. Patel operated on 867 people during the two years he was at Bundaberg. According to one estimate, he raised about \$500,000 per year in additional funding for the hospital.

Patel's medical incompetence, however, was no secret for anyone who cared to investigate.

In 1984 New York medical officials ruled that he had fraudulently entered items on patient records without examining them and demonstrated his "moral unfitness to practise medicine". He was placed on clinical probation for three years and fined \$US5,000. Patel then moved to the Kaiser Permanente Hospital in Portland, Oregon, but in 1997 an investigation into 79 of his operations revealed his "surgical incompetence". He was banned from performing any liver or pancreatic surgery. Patel was directed to get second opinions before doing any other surgery. In 2000 the Oregon Board of Medical Examiners extended the ban state-wide and in 2001 New York officials directed Patel to surrender his medical license.

Despite this, two years later Patel was at Bundaberg Base Hospital and appointed its director of surgery. Bundaberg Hospital medical staff began raising concerns about Patel with weeks of his commencement. The first of these was from intensive care nurse Toni Hoffman who reported a number of "very disturbing scenarios" involving the surgeon.

Dr Peter Miach, the hospital's renal specialist, later told an official inquiry that he had seen so many examples of Patel's dangerous methods that he would not let him touch his patients. Miach urged hospital administration to intervene, only to be told: "You have to understand this is a business". Miach said that he responded: "That's the problem; I think it's a

hospital.”

These concerns were ignored for almost two years by Queensland state Labor government’s health department, until Hoffman persuaded opposition MPs to raise the issue in state parliament in 2005. The health department attempted to contain the scandal until it became impossible and Patel was forced to resign. The surgeon flew back to the US courtesy of a first-class plane ticket paid by the Bundaberg Hospital authorities. Two investigations were held and in November 2005. Patel was charged with murder, manslaughter and fraud, and in 2008 was extradited to Australia to face trial.

The Queensland state Labor government responded to the Supreme Court sentencing of Patel by insisting that it had learnt the lessons of the scandal and that greater public scrutiny of medical professionals and new laws would ensure that a Patel-style case “will not happen again”. These assurances are worthless.

Patel’s employment without an examination of his medical record, and his ability to remain at Bundaberg Hospital for two years, reflected the enormous pressures within the grossly underfunded and understaffed health system. Despite Queensland’s population growing at more than 1,000 a week, the total number of available hospital beds in the state has only increased by only 76 since 2008. Under-funding, under-staffing and inadequate equipment is chronic.

These conditions will worsen under the federal Labor government’s National Health and Hospital Network Plan. The government estimates that it can “save” up to \$1.5 billion a year in total health funding through the establishment of a central mechanism for “rationalising” treatment in hospitals via “casemix” or activity-based funding.

Under casemix, hospital networks will not receive block funding to cater for their community needs. Instead they get set sums of money for the number of procedures and treatments performed, with a so-called independent government-installed “umpire” determining a universal “efficient price” for every act of care. Treatments that go beyond this price will be borne by the hospitals. If hospitals manage to spend less on a patient’s treatment, they will be allowed to keep the surplus.

In other words, doctors and medical staff will be under constant pressure to ratchet up the number of

procedures they administer, while restricting any patient treatment which costs more than the determined “efficient price”. Just as Patel was deemed a “beancounter’s dream”, so under the casemix funding regime other surgeons will be assessed on their impact on their hospital’s “bottom line” rather than on the basis of their medical skill and patient care.

The Patel scandal is another symptom of a medical system driven by profit and where patient care is last on the list of administrative priorities. While the tragedies seen at Bundaberg Hospital may not be repeated in the same form, Labor’s so-called health revolution is creating the conditions where other public health disasters are inevitable.



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