Inquiry under section 122 of the *Health Services Act 1997*

How Mr Shyam Acharya, fraudulently posing as Dr Sarang Chitale, became registered as a medical practitioner; obtained employment in the NSW public hospital system in 2003 and continued working as a doctor in public hospitals until 2014.

Final report

30 June 2017

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Executive Summary

1. The fraud perpetrated by Mr Acharya would not succeed today. Requirements for the registration of international medical graduates have tightened significantly and, while it may be impossible to rule out a more sophisticated fraud, the current requirements and checks appear to be robust.

2. If, like Mr Acharya, a person had been fraudulently registered and working in the public health system, they would not have survived the three annual renewals allowed by the national law from 1 July 2010 without satisfying the more stringent requirements applying to international medical graduates today.

3. Mr Shyam Acharya stole the original medical qualifications of Dr Sarang Chitale, having befriended him when they worked together for about six months as medical interns at Joshi Hospital in Pune, India. The inquiry has been unable to confirm the extent of Mr Acharya's medical training and experience apart from this, although it appears that he did have further experience working as a doctor in India.

4. In late 2002, Mr Acharya, posing as Dr Chitale, was recruited by the Central Coast Area Health Service in NSW, gaining the approval of immigration authorities and registration by the NSW Medical Board in early 2003. There were inconsistencies between the curriculum vitae and written references presented by Mr Acharya which could have been picked up by greater scrutiny and should have led to greater questioning of his application and possibly the detection of the fraud. The recruitment occurred during a period of chronic shortages in the medical workforce, particularly in regional areas, and the pressure at the time appeared to be on facilitating recruitment of overseas doctors rather than scrupulously vetting their qualifications.

5. Overseas trained doctors with qualifications such as those presented by Mr Acharya were treated as 1st year post graduate trainees. They were given little responsibility and closely supervised. Documentation regarding the performance of "Dr Chitale" in his first few years is less than comprehensive. His performance was "just adequate" with "significant clinical gaps" in his first year. By his second year, however, supervisory reports rated him as average. The supervisors interviewed by the inquiry regarding his early years on the Central Coast do not recall him standing out at all and rated him among the lower 30% of overseas post-graduate trainees they had supervised but certainly not the worst.

6. After about three years on the Central Coast "Dr Chitale" was recruited as a Registrar at Hornsby Hospital Intensive Care Unit. At the beginning of his employment he was credentialed as satisfactory in carrying out procedures, such as routine and difficult airway intubation and central venous catheter insertion that would be required in ICU. His integrity became an issue at Hornsby in that he did not tell the truth when reporting patients' conditions and treatment to his supervising consultants, apparently to cover up knowledge deficits and "save face". The supervisors interviewed by the inquiry recalled this was a problem with many international graduates and most thought he was no worse than others they supervised. They managed the problem by more closely checking and verifying his reports.

7. The two senior doctors from the ICU recorded a performance review meeting with him about this issue and both said the problem did not improve over time, although one did provide a "satisfactory" supervision report to the NSW Medical Board. They also told the inquiry that another Indian Registrar had detected that Mr Acharya was not properly qualified and complained to the then Director of Medical Services who did not take the complaint seriously and bullied him into not pursuing it. This issue was investigated as thoroughly as possible. The account given by the two senior doctors was denied by both the Registrar nominated as detecting the fraud and the then Director of Medical Services. Given the seriousness of the alleged conduct and in the absence of any evidence to support it, the inquiry could not be reasonably satisfied that it occurred.

8. The issue regarding "Dr Chitale's" integrity was set out in a written reference when he applied for a position as Registrar in emergency medicine at Manly Hospital in October 2007. The inquiry interviewed two members of the selection panel and is satisfied that they took the issue seriously and made reasonable attempts to assess its impact on his prospective employment. The inquiry found no evidence to support the account of one of the senior doctors from Hornsby Hospital ICU that, as part of the selection process, he received a call from a woman at Manly and told her that he would not employ "Dr Chitale".

9. Mr Acharya was employed at Manly and related hospitals from late 2007 to the end of May 2014. The only performance problem recorded during this time was his late arrival for shifts towards the later part of his employment. The annual supervisory reports to the registration authorities reported him as above average and his supervisors confirmed this when interviewed by the inquiry. He was proficient at carrying out procedures and valued by the nurses for these skills. It appeared that Manly would have continued his employment had he been able to maintain his registration.

10. Registration requirements for international medical graduates began to tighten up as more local medical graduates came onto the employment market. From 1 July 2008, the NSW Medical Board required such graduates to pass the Australian Medical Council Multiple Choice Questionnaire (MCQ) and to obtain Primary Source Verification of their qualifications before they would be registered. Mr Acharya would not have been able to satisfy these requirements. When the policy was implemented in 2008, however, graduates who obtained registration before that date were "grandfathered" and did not have to satisfy the new, tougher requirements.

11. Mr Acharya continued to apply annually for renewal of his registration which, supported by satisfactory supervisor reports and, usually, letters of support from the Australian College of Emergency Medicine, continued to be renewed. He also amended his CV to include a year's experience working in the United Kingdom apparently on the understanding that this might facilitate an easier pathway towards full registration. The NSW Medical Board implemented a policy, apparently in July 2008 requiring approval of registration by a Board delegate for applicants who had more than four previous applications. It reversed this position in March 2009 and registrations continued to be approved by administrative staff from then. None of Mr Acharya's applications were approved in the nine months when approval was required by a Board delegate which may have brought greater scrutiny to bear.

12. Responsibility for registration of medical practitioners was taken over by the Medical Board of Australia from 1 July 2010, when the law was amended to allow no more than three renewals. Mr Acharya, as "Dr Chitale", produced satisfactory supervisory reports and his registration was renewed until the end of June 2014. He attempted to apply under the new rules but it became clear that he could not comply and his application was deemed withdrawn and he lost registration as a medical practitioner.

Conclusions

13. The inquiry reviewed the clinical records of six patients identified from both patient complaints and by the health services. The clinical records confirm that Mr Acharya rarely made clinical decisions without discussion with other doctors and that the care afforded patients caused no harm or injury. The inquiry also reviewed the medical records of 16 cases where death certificates were completed by Mr Acharya during his appointment – all bar one patient had limitations on end of life treatment documented by more senior doctors and Mr Acharya did not contribute to the decision making.

14. As noted above, a person presenting fraudulent qualifications similar to Mr Acharya would not be registered today and anyone who was fraudulently registered between 2003 and 2008 would not have survived the more stringent rules regarding registration that applied in NSW from 2008.

15. Mr Acharya was closely supervised in his early years and under supervision throughout his period of practice. The consensus of his supervisors' accounts is that he became proficient at conducting procedures. Throughout his more than 10 years in the NSW Health Service, he never rose beyond the level of 3rd year post-graduate and would never have been called on to make complex diagnoses or to determine the treatment for serious conditions. Working in the public hospital system, he was supported by senior consultants and staff specialists who were available for advice and to take over anything complex or difficult. While his tendency to cover up his deficits was potentially harmful to patients, his supervisors appeared to be well aware of this potential and to compensate for it.

16. There were opportunities to detect the fraud which were missed:

    a. Documentation Mr Acharya presented for his initial recruitment to a position at Central Coast and subsequent recruitments to NSW Health agencies contained inconsistencies which vigilant scrutiny would have detected and which could have led to disclosure of the fraud.
    b. The NSW Medical Board's approval of registration of applicants in Mr Acharya's position was a routine administrative process which accepted the documentation submitted at face value. It appears that from July 2008 to March 2009 the Board did seek to bring greater scrutiny to such applications but none of Mr Acharya's applications were approved in this period.
    c. The Australian College of Emergency Medicine (ACEM) did not advise "Dr Chitale's" employer or the Medical Board of his failure to attend and pass examinations over a lengthy period.

17. Supervision of junior medical officers in NSW Health has improved significantly since Mr Acharya gained entry to the system, although records of supervision and their use could be improved, as could records of the performance assessment of more senior medical officers.

Recommendations

The inquiry recommends that:

1. NSW Health develop a system that electronically retains documentation of both supervision reports regarding junior medical officers and annual performance reviews of more senior medical officers, as well as documentation of successful completion of skills based assessments (Advanced Life Support etc). This documentation should be accessible to selection panels recruiting for medical officer positions within NSW Health, and to the medical officer to support employment elsewhere.

2. NSW Health audit compliance with its policy PD 2016_040 requiring performance agreements and formal annual performance reviews for medical officers.

3. NSW Health develop documents describing the minimal capabilities and procedural requirements for a Doctor to be in charge of a hospital out of hours. This should be complemented by a credentialing or skills assessment process for doctors in charge of hospitals to ensure that they have the necessary and up to date skills, such as emergency resuscitation, to competently discharge the role.

4. NSW Health provide a copy of this report to the Australian College of Emergency Medicine and engage with it about its procedures for notifying employers of the progress of trainees. Other Colleges should be similarly engaged to overcome the disconnect between the employer and training college.

5. NSW Health provide a copy of this report to the Medical Board of Australia to allow the Board to consider whether its 2016 guidelines for Supervised Practice of International Medical Graduates should contain more guidance regarding the level of practice at which graduates should be assessed.

1. Introduction

1.1: In September 2016 the Australian Health Practitioner Regulation Agency (AHPRA) received information suggesting that the person practising as Dr Sarang Chitale in Australia may not be a qualified doctor. Following an extensive investigation, AHPRA charged Mr Shyam Acharya with falsely holding himself out as a medical practitioner. Although Mr Acharya fled Australia and did not appear at the hearing, he was convicted on 3 April 2017 and given the maximum fine of $30,000.

1.2: On 23 March 2017, the Secretary of the NSW Ministry of Health initiated an inquiry under section 122 of the Health Services Act to review "the circumstances surrounding the registration, employment and management of Mr Shyam Acharya (aka Dr Sarang Chitale) in the NSW public hospital system" and to review the clinical records and treatment of certain patients. The terms of reference for the inquiry can be found at attachment A.

2. The inquiry process

2.1: The inquiry was publicly advertised in major media and on a website. A dedicated phone line was set up to receive submissions from members of the public and health service providers. As at 12 May 2017, six submissions were received – two were from patients who recalled being treated by Mr Acharya although records show one was not treated by him. The other patient's treatment was included in the examination of patient medical records referred to below. The remainder concerned general issues regarding doctors prompted by this case but not concerning Mr Acharya/ "Dr Chitale" specifically.

2.2: The inquiry was provided with extensive documentation from NSW Health, regarding Mr Acharya's employment and career in public hospitals. AHPRA provided documentation regarding his registration as a medical practitioner including by its predecessor, the NSW Medical Board. The documentation was reviewed and further searches for documents requested. The inquiry identified relevant people who, where they could be located, were interviewed.

2.3: NSW Health also provided the clinical records of 22 cases. The clinical records of the six patients who complained about their treatment confirm that Mr Acharya rarely made clinical decisions without discussion with other doctors and that the care afforded to patients caused no harm or injury. Mr Acharya completed 17 death certificates during his appointment and medical records for 16 of these patients were located and provided to the inquiry – all bar one patient had limitations of therapy documented by more senior doctors and Mr Acharya did not contribute to the decision making. A summary of the review of these cases can be found at attachment B.

3. Mr Acharya's prior medical qualifications, training and experience

3.1: As part of its investigation, AHPRA contacted the real Dr Chitale who said that he had worked with Mr Acharya for around six months in 1999 at Joshi Hospital in Pune, India. He befriended him and Mr Acharya moved in to live with Dr Chitale and his grandmother. They parted ways after a time when Dr Chitale's grandmother reported some of Dr Chitale's original documents missing. It appears these documents were the foundation of Mr Acharya's later fraudulent career. Dr Chitale did not co-operate with this inquiry having become understandably upset with the media coverage and impact on his family.

3.2: This inquiry made extensive email requests of Indian hospitals; educational institutions and medical practitioners based on the information that AHPRA had obtained. These inquiries did not provide much more information although two doctors confirmed that they recognised Mr Acharya and that he had worked as a "junior houseman" (or RMO/intern) at Joshi Hospital. Apart from six months at a level of one year post graduation, the inquiry gained no further objectively verifiable information as to Mr Acharya's medical training and experience prior to his arrival in Australia.

4. Medical workforce shortage

4.1: Mr Acharya was recruited by the Central Coast Area Health Service at the end of 2002 and became fully registered to practice on 7 March 2003. At that time, and for many years after, Australia suffered a chronic shortage of doctors and this shortage was being supplemented by international medical graduates. In 2005 the Productivity Commission's "Australia's Health Workforce" Report noted that "There is evidence that there are shortages in overall numbers across a range of the medical, nursing, dental and allied health professions" (p11); and that "Current shortages have already engendered explicit policy responses - for example, the Australian Government has significantly increased the number of undergraduate and vocational education places….Specifically, the number of university places in medicine will rise by 30% between 2001 and 2009…" (p13). Prior to new Australian graduates coming into the workforce, however, the NSW Health system came to rely heavily on overseas trained doctors.

4.2: The doctor supervising Resident Medical Officers (RMOs) in 2003 at Gosford Hospital, where Mr Acharya started, told the inquiry that he estimated that Gosford would have been at one third strength for medical practitioners without overseas graduates and that "we were bringing in doctors from wherever we could get them". The then Registrar of the Medical Board told the inquiry that the numbers of overseas graduates were high; applications all came in at the same time each year and the imperative was to facilitate the registration of overseas graduates rather than hold it up with red tape.

4.3: The data below, compiled from Annual Reports from the NSW Medical Board, show the numbers of overseas trained doctors (called Post Graduate Trainees and later International Medical Graduates) that were registered in NSW each year and the number of new applications made each year.

02/03	**03/04**	**04/05**	**05/06**	**06/07**	**07/08**	**08/09**	**09/10**
889	1082	1193	1326	1577	1757	1547	1514
Number PGT/IMGs initially applying each year							
786	799	848	892	865	771	528	501

4.4: In the AHPRA Annual Report for 2015-16, the Medical Board of Australia reported that the number of doctors with "limited registration" which "allows internationally qualified medical practitioners to provide medical services under supervision" was 682 in NSW. This number had declined 22% on the previous year. The trend clearly suggests an acute shortage in the medical workforce and decline in employment of overseas graduates with substantially more local graduates beginning work.

4.5: A long time officer of the NSW Medical Board who handled Mr Acharya's re-registration in 2009 told the inquiry that the workload was heavy. First time applicants had to attend the Board in person

and staff would be called to the counter to interview them. The staff members' role was to check, on the initial registration, that all required documentation was present; that certified copies of documents corresponded with the originals and to identify the applicant, who had to attend in person, against their passport photograph. The Board noted but made no attempt to verify written references for which it relied on the sponsoring employer. Subsequent registrations were determined on the papers.

5. Post graduate trainees/ international medical graduates - the role of the Medical Board, Australian College of Emergency Medicine (ACEM) and AHPRA

5.1: Post graduate trainees were registered in NSW under section 7(1) A of the Medical Practice Act 1992 (NSW) which provided for temporary registration of a medical graduate from an institution not accredited by the Australian Medical Council "to enable the person to undertake a period of post graduate training in medicine approved by the Board". They were employed in the public hospitals and the specific hospitals in which they could work were a condition of their registration.

5.2: Registration was temporary, for a 12-month period only but could be renewed. The relevant Medical Board policy "IMG Pathways – Post Graduate Trainees (PGT) – Extensions only (96/127)" provided that the renewal must be for genuine training purposes; have the approval of the relevant College and demonstrate satisfactory progress towards gaining general registration. Consequently, each annual renewal had to set out what the applicant had learned in the previous year; their "Goals and Objectives" for the coming year and provide annual letters of support for their continued employment from the College. It appears that from July 2008, consistently with other amendments tightening up the rules for international medical graduates, the Board also required applications after four renewals to be referred to a Board delegate for approval. This was reversed, however, in March 2009 when approvals reverted to administrative staff.

5.3: The Australian College of Emergency Medicine (ACEM) advised the inquiry that Mr Acharya, under the guise of "Dr Chitale", was enrolled with the College as a provisional trainee. He was required to pass examinations in anatomy, pathology, physiology and pharmacology before he could progress to advanced training.

5.4: The NSW Medical Board first registered Mr Acharya as "Dr Chitale" in early 2003 and annually approved his registration until the Board's registration functions were taken over on 1 July 2010 by the national Medical Board of Australia, and managed through AHPRA. The Health Practitioner Regulation National Law (NSW), which effected these changes, continued but tightened up registration for international medical graduates. Under section 72, it replaced the previous Post Graduate Trainee category with "limited registration", which continued to be "for not more than 12 months" but further provided that it "may not be renewed more than 3 times". Starting in mid-2011, Mr Acharya continued to be annually re-registered by the Medical Board of Australia as "Dr Chitale" until his fourth application in mid-2014, when the legislation prevented renewal of his registration.

6. Career progress in the public health system

6.1: Newly employed foreign Post-Graduate trainees, such as "Dr Chitale" were treated in hospitals as though they were first year out from their medical degree. They spent a year in hospital training as "interns" and some managers also refer to them as PGY 1 (Post Graduate Year One). In their

second year in a hospital, they become Resident Medical Officers (RMOs) or PGY 2. Both these levels are closely supervised and have very limited authority.

6.2: Third year doctors become either Senior Resident Medical Officers (SRMOs) or Registrars. SRMOs and Registrars are overseen by staff specialists on the ward, generally during the day, and Registrars can be the most senior officer on site for a shift in the hospital, although consultants and specialists are on call.

6.3: Mr Acharya was employed as an RMO and SRMO at Gosford and Wyong Hospitals in early 2003 having, it was presumed, completed his intern year in India. He was employed as a Registrar in the Intensive Care Unit (ICU) of Hornsby Hospital on 1 May 2006. He then applied for a position as a Registrar in Emergency at Manly Hospital and commenced work there on 29 October 2007, where he remained employed, as a Registrar, until his last day of work on 31 May 2014, following refusal of his registration. While at Manly he also worked at Mona Vale Hospital.

7. Recruitment of Mr Acharya by Central Coast Area Health Service and initial registration by the NSW Medical Board

7.1: Individual health services in NSW were responsible for the recruitment of overseas trained graduates to fill positions. Some advertised directly in target countries and vacancies advertised in Australia were also circulated by employment agencies in those countries.

7.2: No documentation could be found regarding Mr Acharya's recruitment to work at Gosford and Wyong Hospitals. Records retention policies at the time required recruitment records to be retained for 12 months. The inquiry is consequently unable to determine what interview process was conducted or referee checks made. The NSW Health recruitment policy at the time required that referee checks "must be undertaken" and fed into the selection process, although the nature of these checks was not specified.

7.3: The earliest document obtained was a letter dated 19 November 2002 from Central Coast AHS offering "Dr Chitale" employment, subject to immigration approval and registration. On 16 December 2002, Central Coast wrote to the Medical Board, providing documents evidently supplied by Mr Acharya as part of his application, seeking temporary registration. As well as the required letter of support from the Australian College of Emergency Medicine, the area of medicine where Mr Acharya specified he wanted to work, these included a curriculum vitae listing the following positions under "professional experience":

* April 1998 - Nov 1999 – Pune Institute of Neurology;

* Dec 1999 – Nov 2000 - Oil and Natural Gas Corporation;

* Jan 2001 – April 2002 – Maharastra Medical Foundation (Joshi Hospital).

Also included were copies of two written references – one from a cardiologist at Joshi Hospital undated but saying "Thank you for appointing Dr Sarang Chitale as SRMO in Gosford ED for year 2003. I know(sic) Dr Chitale for the last 3 years as senior medical officer at the ED and coronary care unit at Joshi Hospital." This reference is not consistent with the CV provided which has "Dr Chitale" working as Joshi Hospital for some 15 or 16 months. There is no evidence that this discrepancy prompted any further inquiry by Central Coast AHS.

7.4: Mr Acharya made an application for full registration with the Medical Board in person on 29 January 2003. That application included two further written references. One reference, later identified to AHPRA as genuine by the real Dr Chitale, had him working at Joshi Hospital from December 1998 to May 2000, which is inconsistent with both the CV provided and the reference quoted in the paragraph above. The other reference, from the Oil and Natural Gas Corporation, corresponds with the period worked as cited on the CV, but is inconsistent with the period of work cited in other references. As noted above, however, the Medical Board did not seek to verify references expecting the employer to do so. It is not known whether these two further references were also available to Central Coast at the time of recruitment.

7.5: To assure itself of "Dr Chitale's" identity, the Medical Board used the national identification validation standard which remains in use today. It requires the accumulation of 90 points with 70 points being awarded by the production of a genuine passport and visa. Since Mr Acharya had an apparently valid passport and visa in the name of Dr Chitale and had also stolen his original medical qualifications, he passed the identity check easily.

7.6: The ACEM also advised that Mr Acharya, as "Dr Chitale" applied to sit its exams on 2 January 2003 but withdrew and did not sit the exams.

8. Employment and supervision at Central Coast in his first year – 2003/04

8.1: Post Graduate Trainees or International Medical Graduates when they gained employment and registration were managed as though they had just completed their medical studies and it was their first year in practice, as interns or Resident Medical Officers (RMOs).

8.2: The Central Coast AHS "Emergency Department Term Information" sheet apparently in force at the time nominated an overall term supervisor and said: "Individual RMOs will be allocated to individual Staff Specialists for term supervision". The overall term supervisor, interviewed by the inquiry recalled one year around this time where he had 56 RMOs allocated between six staff specialists. Additionally, RMOs were rotated around the various medical disciplines in the hospital outside the emergency area to develop their skills. The overall term supervisor commented that this was a huge supervisory burden and recalled that one year the specialists put an embargo on taking any more international medical graduates.

8.3: When applying in February 2004 to the Medical Board to register Mr Acharya for another year, the Central Coast AHS included two supervisors' reports from the previous 12 months. One covering the period 25 August to 31 October 2003 from a staff specialist noted, via a check box system, that he "requires further development" in communication, diagnostic skills and patient management; that "performance [was] just adequate" on clinical clerking, clinical judgement, ability to relate to patients and other professionals and that his performance was "consistent with the level of experience" expected of a doctor at that level in against the criteria of procedural skills, self-directed learning and reliability. His overall assessment was "requires further development". Written comments included "needs more knowledge and confidence…enthusiastic and reliable but significant clinical gaps" and he "is keen to become an ED Registrar but requires significant improvement before he can fulfil this role".

8.4: The other record of supervision was from the overall term supervisor and covered 5 weeks ("5/52"). It noted performance as "just adequate" for clinical clerking and procedural skills and

"consistent" with level of experience for the rest of the criteria. Written comments were "performing adequately – will need refinement of some procedural skills".

8.5: Both supervisors, when interviewed could not recall Mr Acharya apart from his physical appearance having seen recent publicity, or that he stood out at all from those RMOs at a similar level. On reviewing their reports, they both said he didn't stand out from other international medical graduates despite the low ratings. One recalled 60 to 80 RMOs per year around this time but recalled him to be "very soft spoken with a non-confident demeanour" and would put him at the lower end on a scale of RMOs generally but certainly not the worst that he had seen.

8.6: These two supervisory reports covered a period of a little over three months of the year. No other supervisory reports for Mr Acharya's first year of practice in NSW were found. Based on these reports, all other required documentation being in apparent order, he was registered for another year by the Medical Board on 27 February 2004.

9. Employment and supervision at Central Coast in his second year – 2004/05

9.1: When applying to renew registration for "Dr Chitale"/Mr Acharya in early 2005, Central Coast included supervision reports from specialists who had supervised him during 2004. These included a Senior Resident Staff Appraisal Form covering the period 29 March – 6 June 2004 from a supervisor in geriatric medicine whose signature is illegible and could not be identified. It rated him as "average" in communication, teamwork with medical staff, attendance at teaching and participation in clinical audit and "good" against all other criteria. Written comments included "overall an excellent term. Sarang ["Chitale"] grew in his understanding of geriatric issues and applied himself well" although he did "need to work harder at being part of the team".

9.2: Another supervisor from the Intensive Care Unit covered the period 23 January to 3 April 2004 and rated him as average to above on all criteria. His written comments were that he "performed well in his ICU Term. He improved procedurally throughout the term and his confidence grew. Reasonable performance". This supervisor was interviewed and couldn't really remember anything about him except that he was "pretty quiet" and didn't stand out.

9.3: Another supervisor in general medicine completed a Trainee Evaluation Form for Mr Acharya on 13 January 2005 although the period of supervision covered was not specified. He was rated as average on most criteria with nothing below average. This supervisor was also interviewed but couldn't remember anything about him although he did recall others who were a problem. He said that Mr Acharya wasn't dangerous and didn't stand out.

9.4: Dated supervisory reports for 2004 covered six months of the year although the undated report, if for the same period as the others would mean about nine months were covered.

9.5: The ACEM advised the inquiry that Mr Acharya applied on 27 April 2004 to sit its exams in pathology and pharmacology but withdrew from the first and failed the second. He applied again on 27 December 2004 but withdrew from examinations in all four areas. On 25 January 2005, the College wrote to Gosford Hospital recommending "that Dr Chitale be granted an extension to his occupational training visa for employment for twelve months from January 2005". This letter was provided by Central Coast AHS in turn to the Medical Board in support of his continued registration.

10. Employment and supervision at Central Coast in his third year – 2005/06

10.1: On 23 March 2006 North Sydney Central Coast AHS wrote to the Medical Board seeking registration for another year. The application letter noted that he had "completed rotations in anaesthetics, emergency and general medicine as a relief night registrar. He has been working part time in the emergency department in the first term 2006 while preparing to sit the ACEM Primary Exam [in April 2006]".

10.2: The application included two staff appraisal forms – one covering 20 June to 20 August 2005 as Senior Resident in emergency; the second was a Registrar appraisal form covering the period 9 August 2005 to 22 January 2006 where he was described as "Medical Registrar – nights – relief". The signature on the first appraisal is indecipherable and the doctors from Gosford/Wyong who were interviewed could not identify it. On a five-point scale of "Unsatisfactory – Poor – Average – Good – Excellent", Mr Acharya was rated "Good" against five competencies and "Excellent" against 14. The only written comment was "Good".

10.3: The second form, which covered a longer period, rated him as "Average" against five competencies and "Good" against 10. The specialist who wrote the report was interviewed and shown his report but couldn't remember anything about Mr Acharya.

10.4: During 2005, being still registered as a provisional trainee with the ACEM, Mr Acharya again registered to sit the ACEM exams, on 26 April 2005, in anatomy, physiology and pharmacology and failed each exam. On 27 September 2005, he registered to sit exams in all four subject areas but withdrew from anatomy and physiology and failed pathology and pharmacology. For unknown reasons, the ACEM did not apparently write the annual letter of support for his continued registration that year.

10.5: The application to the Medical Board for another year's registration was approved on 22 April 2006, despite the absence of the usual "letter of support" from the ACEM with the application, which the Board's policy required.

11. Hornsby Hospital Intensive Care Unit (ICU)

11.1: Mr Acharya, posing as Dr Chitale, accepted a position as a Registrar at Hornsby ICU and commenced on 1 May 2006. There is no documentation regarding the selection process for his recruitment – recruitment files can be destroyed after 12 months. Documentation regarding his employment generally at Hornsby is scant – the inquiry was advised that in February 2017, a possum got into the ICU offices and damaged documents, which were discarded although no files less than 12 years old were destroyed. The inquiry inspected the saved documents but discovered no further relevant documents beyond those originally provided.

11.2: One document "HKHS ICU – Registrar Credentialing" in the name of "Sarang Chitale" shows, as part of his induction on 3 and 4 May 2006, his performance of procedures supervised by a staff specialist. The form records "satisfactory performance" in routine and difficult airway intubation; CVC insertion and other regular procedures required in ICU. Some were signed off by a senior doctor of the ICU, referred to as Doctor A.

11.3: One of the staff specialists who supervised "Dr Chitale" vaguely recalled him as quiet and "neither here nor there". She said that she had a low level of confidence in him and was always conscious to check his work. She added that he certainly wasn't the worst of the post-graduate

trainees she had supervised and described his performance as “mediocre”. She recalled a practice in the ICU of very tight supervision with all trainee registrars, with specialists reviewing each patient every morning and directly supervising procedures. She did recall that he was someone “who would tell you what you wanted to hear” but certainly no worse in this respect than many other international graduates. She said that at no time was there any danger to patients and she was never concerned to the extent that it raised any alarm.

11.4: Another ICU consultant who supervised him directly for six weeks recalled nothing outstanding; that there were no adverse incidents; that nothing made him think that he wasn’t properly qualified and that he had “worked with many worse”.

11.5: Another staff specialist who supervised him directly recalled him as someone who would do what was asked but didn’t show a great deal of initiative. He didn’t believe there were any adverse patient outcomes as he performed at a satisfactory level under supervision. He did have concerns about his honesty and said that “if he didn’t know things he would make something up”. Overall, he rated him in the bottom 20% of trainees he had supervised.

11.6: Two senior doctors of the ICU, referred to as Doctors A and B, were interviewed and agreed that when “Dr Chitale” started he was below the level expected of a Registrar but learnt quickly and “soaked things up”. Senior Doctor A said that he “needed a lot of work” procedurally but after intensive training his concerns about procedural capacity abated. As to his performance, they rated him in the bottom 25% and said that his main problem was integrity. They maintained, however, that he was never a danger to patients because he was closely supervised and was “not fatally below par”.

Integrity, Honesty and “Saving face”

11.7: The concern that he would make things up when he didn’t know the answer was expressed by all but one of the supervisors from Hornsby interviewed. It became an issue that was committed to writing by senior Doctors A and B in early 2007.

11.8: On 24 January 2007, they met with “Dr Chitale” and a record of that meeting noted areas of concern including “suboptimal performance in his role as ICU registrar as noted by the ICU consultants”; “inaccurate presentation of data to the ICU consultants”; “apparent deficient knowledge regarding patient’s clinical course, especially with investigation results”; “eagerness to please which at times resulted in inaccuracy as he did not want to ‘disappoint’ the consultant. An example was given of when Dr Chitale reported that a serum creatinine level was normal when in fact the patient had mild-moderate renal failure with an elevated creatinine”.

11.9: The meeting notes record “Dr Chitale” as being “receptive to the raised concerns and areas for improvement” and his account of “a difficult period in his life as his marriage had ended and he was undergoing divorce proceedings”. The note concluded that senior Doctor A would meet with him informally in 2-3 weeks and that he and senior Doctor B would formally interview him again in March 2007. The record of the meeting was sent to the Director of Medical Services with a covering letter dated 8 February 2007 saying – “We believe the issue does not need any further notification beyond alerting you and providing this summary”.

11.10: When interviewed, senior Doctor A confirmed that he had heard from other specialists that “they weren’t sure about him” and recalled one case where “Dr Chitale” had documented a different course of treatment for a patient than that specified by senior Doctor A. He told the inquiry that he spoke to senior Doctor B about it and that, when they both spoke to “Dr Chitale”, he “broke down

and began crying about his marriage problems" and they "had to take this at face value". Asked about the follow up meetings foreshadowed in the record of the January meeting, senior Doctor A said that the concerns remained until "Dr Chitale" left Hornsby and records were made of subsequent meetings which may have been destroyed after the damage caused by the possum. Senior Doctor A, supported by senior Doctor B, said that they became increasingly concerned about "Dr Chitale" being on night shift without supervision and proposed his removal from the roster. Senior Doctor A's recollection was that it occurred late in "Dr Chitale's" period at Hornsby.

11.11: Senior Doctor A initially told the inquiry that he became concerned about further employing "Dr Chitale" at the end of his first year and discussed it with the Junior Medical Officer (JMO) Manager but was told that the normal period of employment was two years. She denied the conversation. Senior Doctor A later submitted that "Dr Chitale's" integrity issue was first documented in late January 2007 it was insufficient to terminate him at that time, out of cycle. He further said that he and senior Doctor B had a "heated" meeting with "Dr Chitale" about being taken off night shift before he left in October 2007 prior to the expiry of his contract in January 2008.

11.12: Senior Doctor B essentially echoed the evidence of senior Doctor A in all relevant respects. However, despite the escalating concerns they reported to the inquiry about his performance, senior Doctor B, as part of the employer's application to the Medical Board to re-register "Dr Chitale" in May 2007, wrote a letter dated 3 April 2007 as a supervisory report saying that "Dr Chitale" had "satisfactorily achieved" a list of "goals and objectives" including management of critically ill patients and set out his goals for the next year. The letter made no mention of any performance deficiencies including lack of integrity.

11.13: When interviewed about this letter, senior Doctor B said that one had to "read between the lines"; that "[Chitale] was a registered doctor" and it was "very difficult to call someone a liar". He added that it was not uncommon for international medical graduates to "make stuff up rather than saying they don't know" as a way of saving face. This satisfactory supervisory report was a major factor in the decision by the Medical Board to register Mr Acharya as "Dr Chitale" for another year.

Was the fraud detected and ignored?

11.14: Senior Doctor A told the inquiry in his first interview of an incident where he found another Indian trainee Registrar on the ward in tears and asked him what had happened. He said the Registrar told him that he had challenged the qualifications "Dr Chitale" and accused him of "not being a doctor". He further said that the Registrar told him that he had taken his concerns to the then Director of Medical Services (DMS), and was told by the DMS that he would have the complaining Registrar deregistered for bullying "Dr Chitale". Senior Doctor A said that, when he was told this, he went straight to the DMS and was told to "F*** off". This evidence of senior Doctor A was supported by senior Doctor B, who did not witness the incident himself but said he was told about it by senior Doctor A later. This issue became the subject of intensive investigation by the inquiry.

11.15: The inquiry located and contacted the Registrar concerned who said that, like everyone else, he "had no idea" that "Dr Chitale" was not a properly qualified doctor. He said that he had little contact at work with him as they mostly worked opposite shifts and only saw each other at handover between shifts. He recalled him as a "very quiet guy", who "never talked about himself, where he was from, anything" even though he tried to engage him given their common country of origin.

11.16: Further investigation into the rosters at Hornsby by the JMO Manager produced a roster for "Dr Chitale" that showed no removal from night shift around March/April 2007 and demonstrated a consistent pattern, excluding leave, of one week on day shift and one week on night shift from the end of December 2006 to his departure in October 2007. The JMO Manager did recall another, different Indian trainee Registrar who was removed from night shift at Hornsby ICU between October 2008 and January 2009.

11.17: The inquiry again contacted the Registrar nominated by the two senior Doctors as exposing "Dr Chitale" who confirmed that he never suspected "Dr Chitale" but that he did become concerned about the procedural skills of this other Indian Registrar and raised those concerns with senior Doctor A, who then removed that Registrar from night shift. The Registrar said that he confronted the other Registrar himself after becoming concerned about his skills and told him that he was going to report him to senior Doctor A. He said that things were tense between them for a while as a result but they became good colleagues later. He denied ever being bullied or threatened with deregistration by the Director of Medical Services.

11.18: The inquiry again interviewed senior Doctor A and put to him the evidence which contradicted his version of events. He conceded that it was a long time ago; that his recollection of events may not be "entirely accurate" but held to his strong recollection that he had found the Registrar crying in the ward; heard his account that the DMS would have him dismissed for bullying "Dr Chitale"; that he confronted the DMS about this and was told where to go. He said that he could not recall placing the other Indian Registrar on night shift in 2008/09 when shown relevant documents.

11.19: He also suggested that the Registrar who denied exposing "Dr Chitale" and being bullied by the DMS was not recalling the events because he was afraid of being made a "scapegoat" and of media attention. He could not explain how the former Registrar could be made a scapegoat given his junior position at the time and the failure of more senior staff, including him, to take further action regarding the allegation of fraud. With respect to fear of potential media exposure, senior Doctor A said that he himself had been contacted by media and he nominated a nurse who he said told him about Facebook postings by other nurses that the media could use to identify and contact the Registrar concerned and suspected that he had already been contacted by the media.

11.20: The nurse nominated by senior Dr A was located; had saved certain Facebook postings on his phone and showed them to the inquiry. They were from other nurses who had posted after the matter became public knowledge. The posts expressed their shock and that they never suspected "Dr Chitale" was the fraud Mr Acharya. None of the postings mentioned or identified the Registrar named by senior Doctor A as potentially vulnerable to media attention via these postings. The nurse himself, who worked in ICU at the time, said that he never suspected "Dr Chitale" nor did anyone else that he knew.

11.21: As to why he took no action regarding the allegation of fraud, senior Doctor A submitted that he did not believe him to be a fraud but a properly registered medical practitioner – "As far as I was concerned the Director of Medical Services already had the information from the Registrar regarding "Dr Chitale" following his interaction with him. That was the reasonable extent of my responsibility regarding an unsubstantiated allegation of fraud at that time."

11.22: Senior Doctor B was also reinterviewed by the inquiry since he essentially supported senior Doctor A's evidence on the detection of Mr Acharya' fraud by another Registrar and it being brushed off by the Director of Medical Services. He said that he only ever discussed the fraud issue with

senior Doctor A shortly after he found the Registrar in tears on the ward. He said he was "surprised" at a Registrar being found in tears and his treatment by the Director of Medical Services and suggested this was why he remembered it. He couldn't remember when this occurred, despite being shown documents in attempt by the inquiry to establish a timeline, and said that he and senior Doctor A never discussed it again until "recently", before this inquiry. He said he thought the original conversation with senior Doctor A occurred before "Dr Chitale's" integrity became an issue.

11.23: He said that he took the fraud issue "seriously" and was asked whether he reported it to anyone; what action he took to support the welfare of the Registrar he was told was found in tears and what he did to manage the potential conflict between the two Registrars. He said he took no action to report it because he heard that it had been dismissed by the Director of Medical Services and he took no action regarding the two Registrars apart from the usual training and support he offered to junior doctors and never discussed it with either of them again. He said that he wasn't aware of any conflict between the two Registrars and they were on different shifts so there was no potential for them to be in conflict in the ICU.

11.24: Although he told the inquiry that he became increasingly concerned about "Dr Chitale" misrepresenting his practice to more senior doctors as time went on he said that he never linked this performance problem with being told that "Dr Chitale" might not be properly qualified. He told the inquiry that he "didn't see any evidence" that "Dr Chitale" was a fake; that "as far as we were concerned he was an accredited doctor"; that he "didn't have any concern that he was not properly qualified" and that misreporting results or treatment to consultants was common among post graduate trainees.

11.25: He was advised that the Registrar who he had been told had uncovered the fraud, told the inquiry that he never suspected "Dr Chitale"; and denied being bullied by the Director of Medical Services but told the inquiry that, well after he worked with "Dr Chitale", he did report his concerns about another Registrar's safety and that this Registrar was moved from nightshift as a result. He was told that rosters confirmed this move but did not support any move from night shift for "Dr Chitale". It was put to him that he might have confused the two. He said, however, that he recalled them as distinct matters; that the Registrar who was moved to night shift was "much worse" than Dr Chitale and that he and senior Doctor A had "tried to" move "Dr Chitale" from night shift but may have encountered administrative obstruction.

11.26: He was shown his supervisor's letter of 3 April 2007 to the NSW Medical Board – the gist of which is that "Dr Chitale" had "satisfactorily achieved the goals and objectives for the year" which were listed and reminded that this letter was written after the documented performance meeting on 24 January 2007 as well as his two further performance meetings with "Dr Chitale". He told the inquiry he thought integrity was a "character" issue rather than something that should affect registration; that he never observed "Dr Chitale" causing any harm and that he was "never a danger to patients"; that he was being assessed at a PGY1 level and pointed to the list of goals and objectives which included phrases like "basic understanding"; "basic competence" against some of the less critical goals.

11.27: Senior Doctor B was asked whether his recent conversation with senior Doctor A about "Dr Chitale" may have influenced his recollection of what he had been told by senior Doctor A at some time in 2006/07. He said that his evidence to the inquiry was his own independent recollection.

11.28: The Director of Medical Services at Hornsby Hospital at the time was also interviewed by the inquiry. The evidence of senior Doctor A was put to him: namely, that another Registrar had come to

him complaining that “Dr Chitale” was not properly qualified and was told that he would be deregistered for bullying “Dr Chitale”. The then Director of Medical Services had no recollection of this happening and told the inquiry that, if it did happen, he would remember it and would have reacted by investigating the issue and putting support in place for the Registrar who came to him. He recounted a very difficult managerial relationship with the ICU at the time which he felt was not working in well with the rest of the hospital. The inquiry reviewed the extensive and entrenched grievance between the then Directors of Medical Services and senior Doctor A which was settled on terms not to be disclosed.

12. Re-registration by the Medical Board – 2007-08

12.1: As noted above, the Medical Board registered “Dr Chitale” from 14 May 2007 to 14 May 2008. The documentation on which this decision was based included the letter dated 3 April 2007 from senior Doctor B of the Hornsby ICU reporting “satisfactory” performance in the previous year; the usual letter of support from the College (ACEM) and an updated curriculum vitae (CV). The ACEM advised the inquiry that “Dr Chitale” had been registered to sit exams in all four subjects on 8 June 2006 but withdrew and registered again to sit the exams on 20 October 2006 but again withdrew and did not sit the exams.

12.2: The new CV added an entry under the heading “Professional Experience”:

> *Jun 2002 – Nov 2002*
>
> *North Manchester General Hospital*
>
> *The above position comprised 3-month rotation through the following posts*
>
> - *Senior House Officer – Renal Medicine – January 2002 – March 2002*
> - *House officer – Pediatrics (sic) – April 2002 – November 2002*

The terms specified in the “posts” cover January – November 2002 and are inconsistent with the heading for the entry which covers June – November 2002. The CV noted that the position occupied before North Manchester was at Joshi Hospital from January 2001 - April 2002. This period is inconsistent with the terms entered as served in specific posts at North Manchester but consistent with the term in the heading for the Manchester entry.

12.3: Around this time regulation began to tighten for international medical graduates apparently because local graduates were beginning to come onto the market. The President of the Medical Board’s message in the Board’s 2007/08 Annual Report noted a 25% increase of interns coming into the system compared to the previous three years. The Board’s “Public Interest - Standard Pathway” Policy at the time noted: “On 1 July 2008, successful completion of the AMC Multiple Choice (MCQ) Exam became a pre-requisite for registration via the Standard pathway”. The Australian Medical Council MCQ exam was considered unduly onerous by many international graduates and was publicly the subject of complaint and lobbying by their representative groups.

12.4: The new policy grandfathered International Medical Graduates who had been registered and working prior to 1 July 2008 and they were not required to pass the AMC MCQ exam so long as they continued to gain satisfactory performance reports and continued to work in the areas specified in their temporary registration.

12.5: There was, however, another pathway to registration which did not involve passing the AMC MCQ exam called the "competent authority pathway". Essentially, this allowed doctors who were trained and supervised in countries deemed to have the equivalent of Australian standards, specifically, the United Kingdom, Republic of Ireland, Canada, the US and New Zealand, to gain "advanced standing" with the AMC and bypass the MCQ exam. The extent of assessment and training required in those "competent authority" jurisdictions is not clear from the Medical Board policy and it appears that Mr Acharya, in preparing to pursue this path to registration, falsely included a year's work experience at North Manchester General Hospital in the UK.

13. Recruitment to Manly Hospital

13.1: In September 2007, Mr Acharya, posing as Dr Chitale, applied for a position as Registrar in Emergency medicine at Manly Hospital. He provided his updated CV to include two senior staff specialists from Hornsby Hospital ICU as referees and he was interviewed on 11 September 2007. Although the recruitment file was not kept, the Local Health District did provide some relevant documents including three single page sheets containing the interview questions and handwritten notes of the three interviewers. All interviewers rated "Dr Chitale" very highly and where scores were recorded they were 8 to 9 out of 10.

13.2: The then Deputy Director of Clinical Services and JMO Manager for the District contacted the referees nominated in the application, although the papers only contain the written response from one. The other referee, also from Hornsby ICU, was interviewed by the inquiry and had no adverse comments about "Dr Chitale" at all. The referee whose written response to the selection panel was provided to the inquiry wrote, in a letter of reference for "Dr Chitale" dated 3 October 2007:

> *His clinical skills are generally very good. His clinical decision making is sound and his procedural skills (central venous access and advanced airway management) are very good. His knowledge level is satisfactory and overall I would consider him to be a competent clinician.*
>
> *……*
>
> *He is punctual and generally reliable, in that given a specific task he will carry it out without undue delay.*
>
> *His main weakness is in the area of interpersonal skills and, dare I say it, ethical behaviour. This point clearly requires elaboration.*
>
> *My colleagues and I expect, when discussing matters of patient care, to be told the truth. If an answer to a question is not known we do not wish to be told some story that attempts to cover up a knowledge deficit. On numerous occasions during his time with us, Dr Chitale has been found to take this latter approach, and this includes the period following a mid-term counselling session in January this year.*
>
> *At the risk of trying to analyse why this has occurred, I believe it stems from a desire to avoid blame at all cost, as well as a desire to save face.*
>
> *……*
>
> *Whatever the cause, it is a shame that it has marred the impression of an otherwise friendly polite and likable person and a competent and promising clinician.*

13.3: The then Staff Specialist and Director of Clinical Training, who was on the selection panel and interviewed by the inquiry, recalled reading the above reference at the time. She said that she called the author and asked whether he thought "Dr Chitale" should be employed at all. She said that they discussed it at length but recalled the referee thought "his procedural skills were good" and, in the end, decided that the integrity concerns were a cultural problem that could be managed with good supervision. She said that "given we had so much trouble" getting someone with good procedural skills, they decided to go ahead and employ him.

13.4: The Deputy Director of Clinical Services and JMO Manager, also on the selection panel, was interviewed by the inquiry. She recalled that she contacted numerous referees and sought verbal references for "Dr Chitale". She thought she also contacted referees from Gosford because they were recruiting for an emergency medicine position and his most recent experience in that area was from Gosford. No notes were made of these reference checks as was the practice at the time. She recalls being quite concerned about the written reference set out above and discussed it at length with the other members of the panel as well as with the Director of Emergency Medicine. In the end, she said they agreed they would take "Dr Chitale" on as they were always looking for more senior doctors. She said that she also spoke to Mr Acharya and told him about the reference that raised his integrity as an issue and told him that they "would be watching him".

13.5: Senior Doctor A of the Hornsby ICU told the inquiry that he received a call from a woman he could not identify at Manly who asked whether he would employ "Dr Chitale" and he told her that he would not. The Staff Specialist and Director of Clinical Training from Manly who spoke to the referee who provided the written reference, told the inquiry that she did not call or receive any call from senior Doctor A and that if she had been told by him that he would not employ "Dr Chitale" she would remember it. The Deputy Director of Clinical Services and JMO Manager who told the inquiry that she conducted verbal reference checks had no recollection of speaking to senior Doctor A from Hornsby and said that if she had been told by any of the referees that they would not hire "Dr Chitale" she would remember it. She further said that such a reference, together with the written reference, would have resulted in "Dr Chitale" not being employed.

13.6: The NSW Health Policy Directive: "Recruitment and Selection Policy and Business Processes – NSW Health Service" (PD2006_059) in force at the time provides that referee checks must be made and references assessed by the selection committee but is silent on whether they should be recorded.

13.7: Mr Acharya was successful in the Manly selection process – he was offered a position as Registrar in Emergency on 10 October 2007 and commenced employment at Manly Hospital on 29 October 2007.

14. Performance at Manly – 2007/08

14.1: The first record of Mr Acharya's performance was made as part of the application by North Sydney Central Coast to the Medical Board seeking re-registration of "Dr Chitale" for a further 12 months from May 2008 to May 2009. A supervision report, dated 11 March 2008 and covering the period October 2007 to March 2008, was provided by the Staff Specialist and Director of Clinical Training who recruited him. She rated him as "at" or "above" the expected level across all the specified competencies and the "Yes" box was ticked in answer to the question "does the supervised practitioner's overall performance demonstrate suitability for General Registration".

14.2: The Staff Specialist told the inquiry that she did bear in mind the concerns raised in writing by his referee and found them justified on some occasions. Overall, however, she was happy with his performance, saying that his procedural skills were "very good"; that he saw patients quickly; that staff "loved him" and she would place him in the top 30% of post graduate trainees she had supervised.

15. Further registration by the Medical Board

15.1: As well as the supervisory report from Manly, the application for re-registration to the Medical Board included a supervisor's report from the Hornsby ICU Staff Specialist who provided the written reference to Manly raising the integrity issue, dated the same day as the reference to Manly, 3 October 2007. It stated that "Dr Chitale" had "satisfactorily achieved the goals and objectives for this year" set out in a list of his functions at Hornsby ICU and made no mention of any concerns with integrity. This supervisor was asked why his letter to the Medical Board did not raise the issue of integrity that he had raised in his written reference to Manly Hospital. His response drew a distinction between a reference to an employer which specifically asked about his work and needed to properly supervise him, and a report to the registration board that might prejudice his career.

15.2: The application also contained another supervisory report, dated 29 May 2008 and covering the period from April 2006 to October 2007, for "Dr Chitale's" period as Registrar at Hornsby ICU. This was provided by the staff specialist from Hornsby ICU who was also a referee for the application to Manly for which there was no documented referee report and rated him as "at" the expected level on all competencies and said he was suitable for general registration.

15.3: The application for re-registration did not include the usual letter of support from the ACEM and neither the college nor the employer health service had a record of any letter. The college advised the inquiry that "Dr Chitale" registered to sit exams in all four subjects on 4 June 2007 but withdrew and did not sit any exams. He registered again to sit exams on 6 May 2008 but withdrew from anatomy and physiology and failed pathology and pharmacology.

15.4: The application for re-registration also contained an amended CV, which this time clearly entered a period at North Manchester General Hospital from Jan 2002 – Jan 2003, both conflicting with previous resumes and inconsistent on its face with the previous entry on the same CV that he worked at Joshi Hospital in India until April 2002.

15.5: It appears that from July 2008 the NSW Medical Board, together with toughening up the registration requirements for new international medical graduates and while "grandfathering" those who had previously been registered such as "Dr Chitale", required approval of further annual applications of those who had been registered more than four years by a Board delegate rather than administrative staff. This was the sixth annual application for "Dr Chitale" and was approved by administrative staff in May 2008, before the change requiring approval by a Board delegate.

16. Performance at Manly – 2008/09

16.1: Although occasional shifts were worked at other hospitals in northern Sydney, the bulk of Mr Acharya's employment as "Dr Chitale" was at Manly hospital. The next document regarding his performance was a supervisory report provided to the Medical Board in support of an application to re-register Mr Acharya as "Dr Chitale" in 2009 for a further year. The report, dated 23 April 2009,

was completed by the Staff Specialist and Director of Clinical Training at Manly Hospital and notes that she supervised him for a 20-month period up until that date. Her report rated him "at" or "above" the expected level for all competencies; said there were "NIL" issues to be addressed and that he was suitable for general registration.

16.2: At interview, she confirmed this assessment saying that his clinical skills were good and when he was on his own he ran the department very well. She didn't recall any problems about him "lying up" to senior staff.

17. Further registration by the Medical Board

17.1: The supervisor's report was sent to the Board as part of an application by the Medical Administration at Manly Hospital seeking another 12 months' registration. The Board's administrative officer found the application lacking and requested a "statement of goals and objectives" which was provided in brief by the employer who further advised that "he will also take his exams this year".

17.2: In March 2009, the Medical Board having determined that, from July 2008, applicants in "Dr Chitale's" position should be approved by a Board delegate changed that policy. From March 2009 approval reverted to administrative staff.

17.3: The Medical Board file incudes a single page completed pro forma titled "Delegate's Registration Decision". The registration officer signed the form on 15 May 2009 noting that "Dr Chitale" had been registered since 2003, for 6 years, and attesting that "all necessary documents have been received, assessed and meet the Board's requirements including Goals and Objectives (Tab A)", although the file contains no letter from the ACEM, a requirement of the policy. Although the registration officer noted on the form that "this application requires Delegate approval as Dr Chitale has been registered as a PGT since 2003", the policy had in fact been amended from March 2009. The decision to register him again in May 2009 was made by an administrative officer and Mr Acharya became registered as "Dr Chitale" for another year until 31 May 2010.

18. Performance at Manly – 2009/10

18.1: On 7 May 2010, NSCCAHS wrote to the Medical Board seeking a further 12 months' registration for "Dr Chitale". The employer's application form noted a new supervisor, a Staff Specialist in Emergency. Her assessment report states the supervision period was from 1 June 2009 to 5 May 2010 and she rates him as "at" or "above" the expected level on all competencies.

18.2: The supervisor was interviewed by the inquiry and said that she supervised "Dr Chitale" Wednesday to Friday during the supervision period. She recalled that he was non-confrontational, gentle and they got on well. She had no issues with his clinical treatment and he had her mobile number but called her no more than any others she supervised. She said his questions were more about logistical issues navigating the system for patients rather than with clinical problems, where she found he was sound. She said he was very good with patients and other staff and did not shirk work but "would just get on and do things". He was procedurally good; his case presentations were logical and clear; he was a good communicator with other staff and nurses "liked him a lot". She told the inquiry that he did do night shift where he was the most senior doctor on site but would hand over patients in the morning and she couldn't recall any difficulties with his treatment of patients.

She rated him as above average for an international medical graduate; said that there was never indication that he lied to save face and that nothing that ever alerted her to the fact that he was not properly qualified.

18.3: She said that they did not talk much about their personal lives although he did consult with her about doing medical exams but when he realised how much work was involved he talked about doing an MBA (Masters of Business Administration) instead.

18.4: Two clinical nurse specialists at Manly volunteered to speak to the inquiry, both of whom were involved in aged care and had worked extensively with "Dr Chitale". One said she "never felt insecure" about his work and that he was as "appropriate" as any doctor she had worked with and "better than some". The other said that he was always appropriate, would ask her advice and always treated her with the utmost respect. She told the inquiry that there were never any complaints from patients; that he was always patient, not angry and coped well with emergency situations. She told the inquiry that nurses generally thought he was the best doctor to go to when a patient needed a difficult procedure. Neither nurse ever had any suspicion that he was not properly qualified and both were shocked when the news came out, a feeling that they said was throughout the hospital.

19. Further registration by the Medical Board

19.1: In reviewing the application of 7 May 2010 for a further 12 months' registration, a Board registration officer, on 19 May 2010, emailed "Dr Chitale" noting that his "Goals and Objectives" for registration back in 2006 were to sit the ACEM and AMC exams that year and asking what he had done to progress. "Dr Chitale" responded by email on 23 May 2010, apologised for not clarifying his goals and objectives, and writing "I have applied for the competent authority pathway, as I have the requirements for advanced standing towards the AMC certificate. Hence, I have not taken the AMC. I intend to sit my primary exams in September this year. A lot of progress took place in my personal life, which has made me postpone the exams." The file also contains a detailed statement of "Goals and Objectives" by "Dr Chitale" which is dated 5 February 2010, before the query raised by the Board's registration officer.

19.2: The Medical Board file contains a form titled "Registration Secretariat's Decision" submitted by the registration officer. It notes that all required documents have been submitted (although the file contains no letter from the ACEM) and recommends approval. Registration was approved by an administrative officer under the policy applying from March 2009.

19.3: On 1 July 2010, the registration of medical practitioners became the responsibility of the Medical Board of Australia assisted by the Australian Health Practitioner Regulation Agency (AHPRA).

20. Performance at Manly – 2010/11

20.1: On 26 May 2011, an application for another year's registration was lodged with the Australian Health Practitioner Registration Authority (AHPRA). The application included a work performance report dated 25 May 2011 by the Staff Specialist and Director Clinical Training who recruited "Dr Chitale" and initially supervised him at Manly. Her report rated him as "above expected level" in all but two of the competencies listed on the form and rated him as "at expected level" for the remaining two. Her handwritten comments note that he is "a valued member of the staff and usually the senior trainee on when working. I have observed his performance for 2 ½ years".

20.2: The other performance document for this period is a form from Manly hospital – a Record of Performance Review dated 4 March 2011, completed by the Staff Specialist/Director Clinical Training regarding "Dr Chitale". It notes some courses he completed during the year and suggests he needs more paediatric experience. Other issues noted as discussed were "tardy at arriving on time" and "completing medical records on the day". He was to address "lateness, education, paediatric and audit" as his goals for the next 12 months.

20.3: When shown this document, the Staff Specialist/Director Clinical Training recalled that around this time new procedures were introduced at the Hospital regarding performance assessment of international medical graduates. She thought this was because of stricter requirements for their registration by AHPRA. In recalling this performance review, she confirmed that there were no problems with his clinical skills and that there were only two things that stood out in her mind – that he was repeatedly late for work and once left for India without any notice to the hospital, supposedly because of a dying relative.

21. Registration by AHPRA for the Medical Board of Australia for 2011/12

21.1: This was the first year that AHPRA managed the registration of medical practitioners. Overseas trained doctors, previously called Post Graduate Trainees by the NSW Medical Board, were now referred to as international medical graduates (IMGs) and were given "limited registration".

21.2: The documentation required by AHPRA for registration appears more extensive than had previously been required by the NSW Medical Board. It included a Supervised Practice Plan, which nominated the Staff Specialist/Director Clinical Training as "Dr Chitale's" principal supervisor and named a co-supervisor. The Plan said that there would be face to face meetings at least 3 monthly as well as an annual review of performance. The degree of supervision applied was ticked as Level 3 – "applicant/registrant takes primary responsibility for individual patients".

21.3: Also required was a Training Program provided by the principal supervisor, a 1 page document which broadly sets out the facets of emergency practice.

21.4: Mr Acharya was also required to submit a Professional Development Plan, which he did in the name of Dr Chitale, and in which he wrote:

> "I am currently registered with the Greater Medical Council [*UK*] having passed PLAB [*a language test by the Professional and Linguistics Assessment Board and required for registration under the Competent Authority Pathway*] prior to working in Australia. Through AMC [Australian Medical Council] I have applied to the Educational Commission for Foreign Medical Graduates [ECFMG] and am awaiting certification for advanced standing certificate".

Also included was the "Work Performance Report" from the Staff Specialist/Director Clinical Training dated 25 May 2011 the substance of which is set out above.

21.5: The Application Form itself required the applicant to answer a lengthy number of "Annual Statements" including:

- – 17. Have you made progress towards meeting the qualifications required for general or specialist registration?

which was answered "yes".

21.6: The application was stamped as lodged on 26 May 2011, scanned 30 May and completed 21 June 2011 and Mr Acharya was given limited registration until 30 June 2012.

22. Performance at Manly - 2011/12

22.1: The only relevant document obtained by the inquiry for this period was a supervisory report provided to AHPRA in May 2012 in support of "Dr Chitale's" next year of registration. It was from a Staff Specialist other than the supervisors nominated on the Supervised Practice Plan lodged with AHPRA in 2011 – the same Staff Specialist who supervised him in 2009/10. She provided a "Work Performance Report for Limited Registration", in the AHPRA form, dated 30 May 2012 and covering the period 1 June 2011 to 30 May 2012. The nature of the supervision was described as "direct supervision 10 hours per week and on call contact, review cases at ward rounds". The form contained provision for self-assessment and "Dr Chitale" rated himself as performing "at" the expected level on all criteria while the supervisor staff specialist rated him as performing "above" the level expected on all but three of the 21 criteria and "at" the expected level for those three.

22.2: Handwritten comments by the Staff Specialist on the form's space for "Strengths" were "Sarang is hard working dedicated and very professional. He has an extremely good approach to teamwork and relates well to other staff and health professionals". Under "Weaknesses" the only comment was "time management can improve". The Staff Specialist was interviewed and confirmed the contents of the report and that the person she knew as Dr Chitale was a hard worker who had good procedural skills, got on well with staff and patients and that she never had any inkling that he wasn't a properly qualified doctor.

23. Registration by AHPRA and the Medical Board of Australia 2012/13

23.1: The Application Form lodged 31 May 2012 required answers to numerous "Annual Statements". Specifically, Section C Limited Registration Requirements asked, at Question 18:

> Have you made progress towards meeting the requirements for general registration or specialist registration?

It appears from the form that initially, Mr Acharya marked the box "N/A I do not intend to practice in Australia in the long term", scrubbed that out and then ticked the "yes" box as his response.

23.2: The application included the "Work Performance Report for Limited Registration" dated 30 May 2012 from the Manly Staff Specialist referred to immediately above. In the required Professional Development Plan, Mr Acharya, as Dr Chitale, wrote:

> "Have applied for full registration via competency authority pathway and is awaiting primary verification process."

The application also included a letter dated 30 May 2012 from the University of NSW confirming that "Dr Chitale" was enrolled in a 12-month Graduate Diploma in Pharmaceutical Medicine.

23.3: The AHPRA registration officer on 25 June 2012 emailed "Dr Chitale" saying he needed to lodge "original certified copies of certificates of attendance for all the CPD (Continuing Professional Development) activities you have undertaken", which do not appear on the AHPRA file. The same officer emailed him again on 7 August 2012 and wrote:

> "When finalising your application for renewal I have noticed on your file that you have stated since 2010 that you have applied for the Competent Authority Pathway. Could you please elaborate where you are with this. Also, could you please confirm if you are still a trainee with the college of Emergency Medicine."

23.4: Mr Acharya responded on 14 August 2012 writing:

> "I have been intending to get my registration sorted via the Competent Authority Pathway since 2010. I have had to gather documents such as PLAB and my rotation year in the UK. The ECFMG certification took a few months to arrive. It is my laziness that I blame to gather all the documents. I will be visiting UK towards November this year and will gather the necessary documents and will then submit it to AMC by the end of the year.
>
> I have withdrawn from the college of Emergency Medicine and am in process of joining Joint Faculty of Intensive Care Medicine (JFICM) by October this year."

On 17 August 2012, the registration officer emailed "Dr Chitale" advising him he had been registered for another year and his status would be posted on the registration website within an hour.

24. Performance at Manly – 2012/13

24.1: With his application for a further 12 months' registration for the 2013/14 year, "Dr Chitale" lodged two work supervision reports in the AHPRA required format, covering his performance during the previous year. One from the Staff Specialist/Director Clinical Training, dated 10 July 2013, described the level of supervision as "direct supervision with staff specialist supervision between 8.00 – 23.00 hours most days", although this appears to have been filled out by Mr Acharya. On the form, "Dr Chitale" rated himself "at" the expected level on all criteria and the Staff Specialist/Director Clinical Training rated him as "above" the expected level on all criteria. The handwritten comments in the "Strengths" and "Weaknesses" section of the form again appear to have been made by "Dr Chitale"-

> "- good communication skills. Can work with team and perform well,
>
> - **I work hard to achieve results,** (emphasis added)
>
> - Respect other opinions and ask for help when needed".

although the "recommendations" section of the form appears to have been completed by the supervisor –

> "Continue as previously, try to arrive on time".

24.2: "Dr Chitale" also lodged a supervisor assessment report in the AHPRA format for the same period from the Staff Specialist nominated as his supervisor in his previous registration application. Her report covered 1 June 2012 to 1 July 2013 and she rated him as "above" expected levels, compared to his own rating of "at" expected levels on most competencies. Both these supervisors confirmed their general evidence about his performance – that he was hard working, had good clinical skills and the only problem was his timeliness.

24.3: On 24 October 2012, the JMO manager for Manly, wrote to "Dr Chitale" asking him to attend a meeting on 30 October 2012 regarding his lack of punctuality "especially when rostered on night shifts". A handwritten note on the letter says the meeting was held; that he blamed traffic; didn't

realise there were concerns from other staff; would speak to his colleagues and would ensure there was no recurrence.

24.4: On 24 November 2012, a Record of Performance Review form was completed by the Staff Specialist/Director Clinical Training. Clinical activity was rated as "All good"; under "Quality improvement" it was noted that he "should attempt to attend clinical review meetings"; "lateness still an issue but has improved" and "completion of documentation in medical record has improved".

25. Registration by AHPRA and the Medical Board of Australia – 2013/14

25.1: Mr Acharya's application for renewal of his limited registration was lodged with AHPRA on 1 July 2013 – a "post-it" note on the file notes "registered since 2003, final renewal".

25.2: On 8 July 2013, an AHPRA registration officer emailed "Dr Chitale" noting that the work performance report he lodged was not from the same supervisor nominated in his last registration renewal. He quickly obtained a report from the other supervisor and the content of both reports is set out in the above section. The registration officer also asked him to submit statements regarding his continual professional development (CPD) and his progress towards general or specialist registration.

25.3: On 28 July 2013, "Dr Chitale" advised he had sent the requested documents. On 30 July 2013, AHPRA responded that he still needed to submit a CPD statement/certificate and a statement on how he was pursuing his goals towards general registration.

25.4: In a "Progress statement" dated 17 July 2013 but apparently received by AHPRA on 2 September 2013, "Dr Chitale" wrote:

> "I have received all the papers needed for my general registration and will be submitting it to the AMC for evaluation. Unfortunately, the documents needed from the UK took a long time to gather and hence the delay."

The statement also said he was currently enrolled in Masters of Drug Development through UNSW and enrolled in a Certificate of Emergency Medicine [ACEM confirmed that he was enrolled for this Certificate course from 1 January 2013] and wished to pursue a Diploma in Emergency Medicine through the ACEM which he said he would complete by the end of 2014.

25.5: On 18 September 2013, AHPRA advised "Dr Chitale" that his application had been considered by the NSW Registration Committee of the Medical Board of Australia and it proposed imposing a condition on his registration as follows:

> Must demonstrate satisfactory progress towards General or Specialist registration within 12 months.

On 19 September 2013, he emailed his consent to the condition and on 20 September 2013 his limited registration, with the condition imposed, was renewed to the end of June 2014.

26. Performance at Manly – 2013/14

26.1: Mr Acharya applied for registration again in mid-2014 and as part of his application included a "work performance report" form from the Staff Specialist supervising him as Dr Chitale at Manly. It

notes the period of supervision as from 1 June 2013 to 31 May 2014 but was signed on 10 September 2014, well after "Dr Chitale" finished with NSW Health. The report rates "Dr Chitale" as "above" the expected level on almost all criteria compared to his own rating as "at" the expected level. Under "Strengths" it says "Dr Chitale is very well organised and motivated. He treats patients with compassion and is very thorough in his clinical approach. He is an efficient and hard worker. Works extremely well in a team environment." There were "no specific concerns" under "issues to be addressed".

26.2: On 13 March 2013, Mr Acharya gained employment as Dr Chitale with a pharmaceutical company for which he did not require registration as a medical practitioner because he was not treating patients. He went on to work for another two private pharmaceutical companies until his final employer became suspicious of his qualifications and notified AHPRA in September 2016, following which the extent of his deception was uncovered.

26.3: As he began to pursue employment outside the NSW public health system in early 2013, he continued to work part time in emergency medicine at Manly (0.5 FTE – full time equivalent) from 8 April to 16 June 2013. He began working at 0.25 FTE from June 2013 until his last day employed in the NSW public health system on 31 May 2014 when it became apparent that his registration, expiring on 30 June 2014, would not be renewed.

27. Further attempts at registration

27.1: Mr Acharya applied for registration again for the year 2014/15. As his limited registration could not be renewed he attempted to claim specialist registration via the Competent Authority Pathway and the responsible AHPRA officer sent him a detailed email on 11 August 2014 telling him what documents would be required.

27:2: On 19 September 2014, the AHPRA officer advised she had received further documents from him but numerous requirements remained outstanding. These included:

- Primary Source Verification of his primary medical degree from the Education Commission for Foreign Medical Graduates (ECFMG), which was not a requirement when he was first registered in 2003;
- A letter of support from his supervisor on hospital letterhead; and
- Evidence that he planned to commence training with the ACEM and sit the AMC MCQ exam.

With respect to the work performance report by the Manly Staff Specialist supervising him the previous year and in accepting an updated and more complete report, she said:

> "The NSW Board has resolved that work performance reports should provide sufficient details that will allow the Committee/Board to make an informed decision. It was also resolved that reports should not include only ticks/initials but should also include detailed information regarding strengths/weaknesses, how weaknesses are to be addressed and more detailed information in the recommendations section."

27.3: There was no further contact from Mr Acharya and the registration officer emailed "Dr Chitale" on 28 January 2015 advising that, as certain required documents were still outstanding, his application was deemed withdrawn.

28. Registration of International Medical Graduates today

28.1: From 1 July 2008, the NSW Medical Board changed its general procedures regarding the registration of non-specialist international medical graduates providing that applicants were required to pass the Australian Medical Council Multiple Choice Questionnaire Examination (AMC MCQ) and obtain Primary Source Verification (PSV) of their original medical qualifications. These requirements were continued by the Medical Board of Australia when it took over responsibility for registration of medical practitioners nationally.

28.2: The AMC MCQ is a rigorous and demanding examination that is designed to assess whether examinees can practice at the equivalent standard of Australian medical graduates. Although Mr Acharya told registration authorities that he intended to sit this exam, the AMC has confirmed that he never did.

28.3: Primary Source Verification of medical qualifications is conducted for Australia by the United States' based Educational Commission for Foreign Medical Graduates (ECFMG). Applicants are required to provide identification documents, including their passport, and certified copies of their original medical qualifications for assessment. The ECFMG has developed an extensive database of copies of qualifications from medical schools around the world. It compares the submitted qualifications against its database, which may pick up fraudulent documents, and then provides the qualifications to the educational institution they purport to be from, for confirmation that they are genuine.

28.4: The qualifications used by Mr Acharya to become registered as "Dr Chitale", as well as a copy of his passport were provided by the AMC to the ECFMG after discovery of the fraud. The ECFMG advised the AMC that firstly, it already had records of the qualifications from the real Dr Chitale and secondly, that when it provided them to the university in India that they were from, that University identified that the date of birth on the passport was not the date of birth given by the real Dr Chitale in the university's records. The AMC advised that since Primary Source Verification has been in use in Australia, from 1 January 2006, a total of 62,127 applications have been processed with nine found fraudulent.

28.5: The requirements of passing the AMC MCQ and PSV of qualifications by the ECFMG were imposed by AHPRA on behalf of the Medical Board of Australia for the 2014/15 year, when Mr Acharya sought limited registration after his three years allowed under the national law had expired. He failed to comply and could not be registered.

28.6: A non-specialist international medical graduate may become registered without passing the AMC MCQ exam via the "Competent Authority Pathway" which provides for registration of graduates from countries where the standards are equivalent to Australia. Applicants under this process may be eligible for "provisional" registration if they have a medical degree from an institution recognised by the World Directory of Medical Schools (which the degree stolen by Mr Acharya was); have passed an English language assessment (PLAB in the UK) and must have completed training and assessment with an approved competent authority (e.g. the Greater Medical Council (GMC) in the UK). Applicants under this pathway must still have Primary Source Verification of their qualifications.

28.7: Had Mr Acharya persisted with his application via the Competent Authority Pathway, a check with the Greater Medical Council of "Dr Chitale" would have exposed him, which was how he became exposed when a suspicious employer checked with the GMC in 2016, and he would not have survived the PSV process.

28.8: Specialist international medical graduates must hold a specialist degree which must be accepted by the relevant Australian specialist college as equivalent to an Australian standard before they can be registered. This did not apply in Mr Acharya's case.

29. Evolution of supervision and training

29.1: When Mr Acharya commenced working as Dr Chitale on the Central Coast he was one of between 50 to 80 Resident Medical Officers whose supervision was shared by six staff specialists. As well as these specialists, the RMOs were supervised by different senior staff when they rotated through various specialties – one of the supervisors in support of "Dr Chitale's" re-registration was in geriatric medicine. The methods by which supervision was recorded varied between hospitals and the records available to the inquiry demonstrate that supervision reports were spasmodic and did not cover the whole period of an RMO's service. The only annual requirement appears to have been from the registration authority which required a satisfactory supervision report to renew registration. It is clear, particularly at the RMO level, that there was the potential for supervisor "shopping". Junior medical officers could, and would naturally, choose the supervisors who they found the most sympathetic to complete the annual reports to the registration Board or relevant college.

29.2: The quality of supervision reports to the registration Boards over the years appears to have been an ongoing problem. The former Registrar of the NSW Medical Board confirmed that they were of continued concern to the Board and the report forms were regularly revised in an attempt to capture more reliable assessments. The problem is current with the NSW committee of the Medical Board of Australia concerned that there was too much ticking of boxes and not enough individual evaluation of strengths and weaknesses. In its revised guideline dated January 2016 on supervised practice for international medical graduates, the Medical Board of Australia specified that supervisors should have direct supervisory responsibilities "for no more than four" IMGs.

29.3: The inquiry also found that some of the supervisors completing annual reports to the registration authorities for "Dr Chitale" assessed him at the level of a first year RMO even though he was working as a Registrar and had been in the system for years. There appeared to be an understanding that since international medical graduates commenced work at this level they continued to be assessed at that level.

29.4: Supervision and training of first and second year RMOs are now managed in NSW by the Health Education and Training Institute (HETI). Each hospital has a Director of Pre-Vocational Training and a General Training Committee whose job it is to develop and manage training, identify "weak" RMOs and provide them with training support. Documentation of supervisory reports is standardised across NSW Health. Each RMO is allocated to a Registrar and a single consultant is responsible for supervision of the RMO for each of the five annual terms.

29.5: Obtaining a comprehensive supervision report with the input of all consultants who might have worked with the RMO remains problematic and is addressed by the nominated supervisor obtaining the verbal input of other consultants who may have worked with the RMO for their report. HETI is currently trialling a more rigorous workplace based assessment in three hospitals although the feedback is that those hospitals are finding it very demanding.

29.6: While training and supervision of RMOs receives considerably more attention than previously, the requirements for medical practitioners after the first two years are less rigorous. Traditionally,

after the first two years, medical practitioners either go into general practice or specialist training with a college. There is a growing number of practitioners, however, who do not pursue either of these two paths but are “unstreamed” and remain in the NSW health system.

29.7: Training for these practitioners is largely self-determined and directed. Supervision of medical officers, career medical officers and staff specialists is covered by a NSW Health Policy (PD2016_040), though staff specialists also have specific provisions about annual performance agreements and reviews in their Award which take precedence where they differ from the policy. PD2016_040 requires that each employee to whom the policy applies has an annual performance agreement setting out their individual performance objectives, and that their performance is formally reviewed against that agreement at least annually. Since the policy dates from 2016, its implementation was not reviewed by the inquiry.

29.8: Clearly, the development of a more rigorous and reliable system of supervision and training would also result in more reliable reports to registration authorities as well as employers.

30. Conclusions

30.1: The inquiry has found no evidence that Mr Acharya, practising as “Dr Chitale” caused harm to any patients he treated in NSW hospitals. There was significant publicity after Mr Acharya was exposed as a fraud and public advertisement of this inquiry which resulted in a relatively small number of complaints from patients he had treated. Examination of these cases, together with others notified by his employers did not disclose any concerns that the treatment provided by Mr Acharya caused harm or injury to patients.

30.2: A person in the same position as Mr Acharya, having stolen legitimate medical qualifications, could not be registered today. Non-specialist international medical graduates are required to pass the Australian Medical Council Multiple Choice Questionnaire and produce Primary Source Verification of their qualifications. All the evidence leads to the conclusion that Mr Acharya could not have passed the exam and his fraud would have been discovered during the process of Primary Source Verification.

30.3: When Mr Acharya was first recruited by the Central Coast Area Health Service there was an inconsistency between the professional experience listed on his curriculum vitae and one of the references he provided, which if detected, should have prompted closer scrutiny of his application. In seeking registration with the NSW Medical Board, a condition of his employment, Mr Acharya provided two further references which were both inconsistent with his curriculum vitae and the previous reference. This did not prompt any further scrutiny of the application by his prospective employer or the Medical Board, which relied on the employer to check references. His recruitment and registration occurred during a chronic shortage in the medical workforce and the prevailing approach was on facilitating the employment of overseas trained doctors.

30.4: Supervision reports for the first two years of “Dr Chitale’s” performance cover three months of the first year and six months of the second. The first-year reports note he required “further improvement” and that there were “significant clinical gaps”, although the second-year reports rate him as “average” and “good” - and note his improvement in carrying out procedures. For the rest of his time on the Central Coast, supervisors interviewed recalled him as someone who did not stand out and performed adequately. On average, they rated him in the lower 30% of overseas trainees they had supervised but said they had certainly seen worse.

30.5: Mr Acharya had a more difficult time as Registrar at Hornsby Hospital's ICU (May 2006 – October 2007) where his integrity became an issue with supervising Consultants. Their concern was that he would misreport clinical results and treatment, apparently to cover up his own knowledge deficits and "save face". This misrepresentation resulted in at least one documented performance review and a letter from one consultant to a prospective employer detailing his assessment of the issue. Only one Hornsby consultant interviewed had no concerns about this issue; others said that the problem was not uncommon among overseas trained graduates; that he was no worse than others in this regard and that they managed it by checking and monitoring him more closely. All said that they never saw any harm resulting to patients as a result, although senior Doctor A of the Hornsby ICU said he certainly saw the potential for harm to patients.

30.6: Senior Doctors A and B of Hornsby ICU told the inquiry that another Indian Registrar had detected that "Dr Chitale" was not properly qualified but been bullied into silence by the then Director of Medical Services. This issue was intensively investigated – it was denied by the Registrar nominated as detecting the fraud; denied by the Director of Medical Services and no contemporaneous documentation was found to support it despite the further inquiries that are set out in detail in the report. Given the seriousness of the conduct related to the inquiry by senior Doctors A and B of the Hornsby ICU; the denials by those allegedly aware or made aware of the fraud; the lapse of time since the alleged event; the evidence of senior Doctors A and B that they continued to consider and treat "Dr Chitale" as a qualified doctor and the conflict between senior Doctor A and the Director of Medical Services, there is insufficient basis on which the inquiry could reasonably conclude that Mr Acharya's fraud was exposed by a junior doctor and ignored by more senior staff.

30.7: When Mr Acharya applied to work at Manly Hospital in October 2007, one of his referees provided a written reference which squarely raised the issue of his "ethical behaviour". Although there is no documentation, the inquiries recalled as being made by the selection panel on receipt of the written reference are set out in the report and appear to have been reasonable. In view of the general evidence that this integrity issue was not uncommon with overseas trained doctors, the decision to employ "Dr Chitale" by Manly Hospital was not unreasonable. In the absence of any support for the evidence of senior Doctor A, that he received a telephone call from Manly and told the woman calling that he would not employ "Dr Chitale", there is insufficient basis for the inquiry to be satisfied that it occurred.

30.8: "Dr Chitale's" period at Manly Hospital, from November 2007 to May 2014, was relatively uneventful. His supervisors rated him as above average and his proficiency with conducting procedures made him an asset. The staff interviewed generally spoke well of him including two nurses who volunteered to speak in his favour. The only significant performance problem noted was his lateness arriving to shifts. Had his registration not expired in mid-2014, it appears that Manly would have been happy to continue his employment.

30.9: The NSW Medical Board's approval of registration of applicants in Mr Acharya's position was a routine administrative process which accepted the documentation submitted at face value. It appears that for a limited time, from July 2008 to March 2009, the Board did seek to bring greater scrutiny to such applications but none of Mr Acharya's applications were approved in this period.

30.10: The Australian College of Emergency Medicine [ACEM] provided annual letters of support, most years, for "Dr Chitale's" continued registration despite his continued failure to sit and pass exams as a provisional trainee with the College. Disclosure by the ACEM of "Dr Chitale's" lack of

progress to his employer and the Medical Board may have resulted in closer scrutiny of his continued annual registration.

30.11: Supervision of medical practitioners in NSW public hospitals is a complex logistical problem. Supervisors nominated to registration authorities may have little direct supervision and supervision by consultants and staff specialists may be spasmodic and not cover all of the supervised practitioner's work. Significant improvements have occurred in the supervision and training of 1st and 2nd year post graduates with a more structured and accountable system, although the problem of capturing the assessments of multiple consultants and staff specialists who have worked with the practitioner remains. Training and supervision beyond the first two years as an RMO is largely unstructured although from 2016 the relevant NSW Health Policy requires a formal performance review at least annually.

30.12: A considerable number of supervisors interviewed by the inquiry assessed "Dr Chitale" at a 1st year post graduate level although he had been working as a doctor for some years and it appeared that supervisors continued to assess international medical graduates at this 1st year level despite their years of experience in the system. Supervisory reports to the registration authorities assessing his performance at the 1st year level when he had many years' experience, did not provide an accurate assessment of his progress as a trainee.

31. Recommendations

31.1: Considerable time has elapsed since the conduct the subject of this inquiry occurred. The conditions for eligibility for registration of international medical graduates have tightened substantially over the years. From July 2008 in NSW, an international medical graduate with the qualifications presented by Mr Acharya would not have been registered without passing the Australian Medical Council MCQ exam and obtaining primary source verification of their qualifications through the Educational Commission for Foreign Medical Graduates. The Chief Executive of AMC who works extensively with the ECFMG advised the inquiry that primary source verification is rigorous and detects some fraudulent qualifications each year. While no regulatory system is perfect, the inquiry finds no basis for making any recommendations in this area.

31.2: The recruitment policies of NSW Health have also improved and there appears to be no need for revision of the current policy subject to recommendation 1, below.

31.3: Supervision of medical practitioners in NSW Health agencies has also improved both through more structured systems and procedures and the application of more dedicated resources such as specialist Directors of Training in each hospital. The poor documentation of supervision and performance review that was available to the inquiry was, however, a significant issue and could be improved. The inquiry recommends that:

> 1. NSW Health develop a system that electronically retains documentation of both supervision reports regarding junior medical officers and annual performance reviews of more senior medical officers, as well as documentation of successful completion of skills based assessments (Advanced Life Support etc). This documentation should be accessible to selection panels recruiting for medical officer positions within NSW Health, and to the medical officer to support employment elsewhere.
>
> 2. NSW Health audit compliance with its policy PD 2016_040 requiring performance agreements and formal annual performance reviews for medical officers.

31.4: Although there was no evidence of harm to patients it was of some concern to the inquiry that there was no formal process of qualifying doctors who were the most senior doctors at hospitals on night shift. The inquiry therefore recommends that:

> 3. NSW Health develop documents describing the minimal capabilities and procedural requirements for a Doctor to be in charge of a hospital out of hours. This should be complemented by a credentialing or skills assessment process for doctors in charge of hospitals to ensure that they have the necessary and up to date skills, such as emergency resuscitation, to competently discharge the role.

31.5: The Australian College of Emergency Medicine provided annual letters supporting the continuation of "Dr Chitale" in his position despite his failure to progress as a provisional trainee. The Australian Medical Council in its Standards for Assessment and Accreditation of Specialist Medical Programs and Professional Development Programs, 2015 suggests that colleges should inform employers and regulators "where patient safety concerns arise in assessment" of trainees. The inquiry recommends that:

> 4. NSW Health provide a copy of this report to the Australian College of Emergency Medicine and engage with it about its procedures for notifying employers of the progress of trainees. Other Colleges should be similarly engaged to overcome the disconnect between the employer and training college.

31.6: It became clear to the inquiry that supervisors of international medical graduates for the purpose of supervision reports to the registration authorities, assessed graduates at the equivalent of 1st year post graduation, regardless of their years of experience. The inquiry recommends that:

> 5. NSW Health provide a copy of this report to the Medical Board of Australia to allow the Board to consider whether its 2016 guidelines for Supervised Practice of International Medical Graduates should contain more guidance regarding the level of practice at which graduates should be assessed.

Inquiry under section 122 of the *Health Services Act 1997*

How Mr Shyam Acharya, fraudulently posing as Dr Sarang Chitale, became registered as a medical practitioner; obtained employment in the NSW public hospital system in 2003 and continued working as a doctor in public hospitals until 2014.

Attachment A

Terms of Reference (22 March 2017)

INQUIRY UNDER SECTION 122

of the

HEALTH SERVICES ACT 1997

TERMS OF REFERENCE

I, Karen Crawshaw, Deputy Secretary, Governance Workforce and Corporate of the NSW Ministry of Health, acting as delegate of the Secretary, Ministry of Health, do hereby initiate an inquiry under section 122 of the Health Services Act 1997.

Mr Kieran Pehm and Dr Robert Herkes are appointed to undertake an inquiry to review the circumstances surrounding the registration, employment and management of Mr Shyam Acharya (aka Dr Sarang Chitale) in the NSW public hospital system, specifically to:

1. Review how Mr Acharya came to be employed in hospitals within the NSW Public Health System in 2003 and continued in that employment until 2014, in particular:

    a. consider the legal and policy requirements in place at that time applicable to:

        i. a person seeking registration as a medical practitioner in NSW;
        ii. a person seeking employment as a medical practitioner in a NSW public hospital;
        iii. the ongoing management of a person employed as a medical practitioner in a NSW public hospital.

    b. assess whether those legal and policy requirements relevant to the registration, recruitment and ongoing management of Mr Acharya (using the name of Dr Sarang Chitale) were complied with.

2. Review the following records and information:

    a. clinical records of individual patient cases raised with NSW Health, including the Central Coast Local Health District and Northern Sydney Local Health District, where Mr Acharya (using the name of Dr Sarang Chitale) provided the services.
    b. records relating to Mr Acharya's recruitment and ongoing employment, including information on where Mr Acharya worked in the public health system.
    c. submissions received from members of the public in relation to these terms of reference

3. Noting that since 2003 there have been changes in both the laws and policies applying to registration, recruitment and management, assess and advise on what if any further changes to policy or law should be considered.

4. The Inquiry will have access to such administrative and clinical records held by public health organisations as necessary to undertake this inquiry and the process for the conduct of the inquiry will be as determined by the reviewers.

The Inquiry will provide a Report on the outcome of the review to the Secretary by 30 June 2017.

Inquiry under section 122 of the *Health Services Act 1997*

How Mr Shyam Acharya, fraudulently posing as Dr Sarang Chitale, became registered as a medical practitioner; obtained employment in the NSW public hospital system in 2003 and continued working as a doctor in public hospitals until 2014.

Attachment B

Review of cases regarding care given by Mr Acharya as “Dr Chitale”

Review of cases regarding care given by Mr Acharya as "Dr Chitale".

Of the patients concerned about their care who contacted the inquiry, six could be traced to the care undertaken by Mr Acharya. The medical records of these patients were reviewed to ascertain if any patient had suffered harm, whether the care was of an appropriate standard and whether there were any deficiencies that should have been detected at the time.

One complaint concerned Mr Acharya prescribing a pain killer the patient was allergic to – this was detected by the nursing staff and the medication never administered. Another complaint concerned Mr Acharya who was assisting another doctor, sending a patient home following a history and normal physical examination, without any X-rays following a 5m fall. A senior nurse was concerned that the patient should have had x-rays, so she persuaded another doctor to recall the patient and undertake spinal x-rays, a CT and ultimately an MRI. All tests were normal. Another patient complained that Mr Acharya refused to prescribe an opioid analgaesic for pain, in the setting of an active Drug and Alcohol Team plan to limit the use of opioids. Similarly there were concerns about the adequacy of pain relief in a patient with multiple presentations with renal stones. Patients presenting recurrently with pain to Emergency Departments, seeking opioid analgaesics present unique problems for staff. ED Staff need to balance potential drug seeking behavior, the risk of dependency, with the need to adequately relieve suffering. Another complaint concerned the time it took to recognize that a patient, who was being treated for constipation, was actually suffering from a ruptured appendix and peritonitis. In retrospect, the initial diagnosis made by Mr Acharya of constipation at 1am was incomplete, however care was escalated to the surgical team at 8am, and it still took until the following evening to diagnose appendicitis. This was partly because the patient initially refused CT scans, then when performed the scan result was inconclusive, and because even an experienced surgical team was not sure of the appropriate diagnosis.

Junior doctors in Emergency Departments perform many roles but are part of a bigger team of other doctors, nurses and allied health staff. In essence, the junior doctor must take a history and physical examination, undertake relevant investigations and decide if a patient is too sick to be sent home. The junior doctor or nurses then undertake a series of procedures including insertion of cannula, naso-gastric tubes, urinary catheters and the like, to stabilise the patient. If the patient stays in hospital the junior doctor has to triage the patient to an appropriate medical, surgical or psychiatric team, who then plan and undertake the ongoing treatment. Junior doctors work in a supervised environment with limited delegated decision making. The notes demonstrate that Mr Acharya discussed cases with his supervisors and escalated issues appropriately. Emergency Departments are an area of the hospital where multidisciplinary care is at its strongest and the complaints demonstrate the strength of the team environment to recover from potential misjudgments.

The review of the medical records of the six patients who contacted the inquiry, as set out above, did not document any mistreatment that resulted in adverse outcomes to patients. Diagnoses within the Emergency Department evolve with increasing information and evolution of the underlying disease. Although some decisions which were made may have been wrong in retrospect, they were decisions which could have reasonably been made by any properly qualified medical practitioner at the level of experience and training of a junior registrar. The multi-disciplinary nature of care in public hospitals, allows potential errors to be picked up by other practitioners and in more complicated cases, such as appendicitis, identified by more experienced staff, after further investigation.

A further review was undertaken of the medical records of 16 patients for whom Mr Acharya had signed a Death Certificate. This review again involved examination of the clinical notes, and sought

to establish the extent of Mr Acharya's involvement in the patient's care, whether a more senior doctor was responsible for medical decisions, and whether the patient's care was appropriate. The majority of these patients were elderly, suffered chronic disease, and had multiple admissions to hospital as their health deteriorated. Of the 16, all except 1 patient were receiving palliative care or had recorded limitations on their treatment, because they were nearing the end of life. The only patient who died without receiving palliative care or limitations of therapy, died of sepsis with disseminated cancer despite aggressive therapy. An ED consultant and ICU consultant were directing her care. Mr Acharya documented limitation of therapy on one patient. This patient presented with an acute myocardial infarct, and was on the third round of chemotherapy for a carcinoma of the pancreas. Urgent cardiac angiography was arranged with a cardiologist at Royal North Shore Hospital. The patient and his wife had a conversation discussing ongoing treatment options with Mr Acharya, independently witnessed by a nurse, where the patient expressed the view that he would not wish to be resuscitated should he deteriorate. He suffered a cardiac arrest during an ambulance transfer from Manly to Royal North Shore Hospital, and was returned to Manly.

The review of the patients' clinical notes where Mr Acharya had completed a death certificate showed their care was appropriate, was directed by senior medical staff and Mr Acharya undertook the role of a junior doctor, taking histories, documenting physical examinations and ordering investigations and consultations. The notes demonstrate that the decisions about care were taken at a consultant level.

Northern Sydney and Central Coast Area Health Service also reviewed the death certificates documented by Mr Acharya, resulting in alterations and updating the certificates. These alterations more clearly identify the precipitating factor causing death, but do not alter the major diagnosis.

NSW Health also undertook to look at its complaints and incident management systems to ascertain if there were contemporaneous complaints about Mr Acharya. None were found.

Dr Robert Herkes