Dear Mr Snowball,

I apologise for the length of my various submissions. If I had more time, I could make them shorter.

If I am given an extension of time I can still make them shorter,

I can give oral evidence if you wish.

This is my summary based on problems I have personally encountered to my detriment and to the detriment of patients and public health

**Summary of Changes that I believe are needed in NSW particularly**

**Values**

1. The interests of the patients are the top priority and only concern.

2. Protecting the public coincides with the interest of patients.

**Complaints**

3. Every complaint must be investigated to ascertain whether the events alleged events ever happened, that is if they are consistent with a clinical record, **before** a complaint is given to any reviewers. Reviewers may find it difficult to go back on their opinion when they find the complaint on which they have already passed judgment was false.
4. A patient may make a complaint or a patient’s relative or friend may make a complaint in the event of the death or incompetence of a patient (which is pretty common when they are on a lot of pills.)

5. If a GP or other non expert wants to make complaint about a specialist’s work it must be immediately assessed by an expert in the field.

6. Every complaint needs to be assessed by an independent expert in the field, not a peer of the accuser or accused.

7. No proxies for offended doctors are to be permitted to make complaints.

8. No administrator who is not qualified in the discipline of the accused doctor may provide a complaint or act as a proxy for an offended doctor. Unless it is clearly stated that he or she acting as a proxy. This is necessary because the Health Care Complaints Commission in Sydney says they won’t act against administrators accused of providing false and misleading information because they don’t act against administrators.

9. HCCC needs to be able and willing to act against administrators who put false and misleading information to HCCC.

   Activities that pervert the course of justice

10. Perversion of course of justice is a criminal offence.

11. It’s is to be referred to the Legal Services Commissioner and police immediately on discovery.

12. There is no statute of limitation on crimes against justice, on perverting curse of justice or malfeasance.

13. All persons who put false or misleading information to Medical Board/Council/HCCC should be personally liable and pay personal penalties as stipulated in the legislation. This is perversion of the course of justice.

14. Omission of exonerating or contradictory evidence to a peer or tribunals constitutes a perversion of the course of justice.

15. Attempts to pervert the course of justice by failing to put strategic information to peers and tribunals is to be referred to the Legal Services Commissioner and police immediately on discovery.

   Procedures

16. Natural justice should apply at all times.

17. Start with the presumption of innocence.

18. No trivial complaints to be put to PSCs.
19. Tribunals should never make findings on issues that have not been the subject of particulars so have never been answered or defended, only kangaroo courts do that.

20. Tribunal should not make psychiatric assessments of doctors before them or comment on their mental state without expert evidence before them on that issue.

21. If a doctor wants to meet with board, that should be respected, but all meetings are to be recorded.

22. All hearings including PSCs are to be recorded.

23. Charge the doctor with what he has or has not done, not with “not considering” some procedure or “not being a fit and proper person” or “unprofessional conduct.”

24. Provide specific charges to be answered and not permit a Tribunal to make findings outside of particulars.

S 66

25. Do not use Section 66 hearings unless the doctor in question has had more than one adverse event of a kind that leads to concern.

26. Use s26 for first one, even two. Try counselling by a very senior and respected colleague.

27. Make an s 66 hearing compulsory if more than two similar complaints have been received about the same doctor and there have been adverse outcomes and the doctor has not responded to counselling.

Reviewers

28. Abolish so called “expert peers” as it is a contradiction in terms. All experts to sign the Expert Code of Conduct. Peers by definition maintain the majority view which is often wrong.

29. Do not permit the Commissioner to chose experts he prefers, in a conflict, proper procedures are to be used.

30. Abolish the Commissioner’s Internal Medical Advisors (IMAs) or have them behave like experts and be qualified as experts in whatever they opine on and sign and make available their signed reports adn qualifications.

31. Abolish other fabrications behind which the Commissioner hides, including the so called “notes expert” who may not even exist or if he does he is incompetent and does not substantial his or her opinions.

32. All experts should be liable for their opinions and able to be challenged.
33. They should be prepared to be sued if they gave improper evidence or incorrect evidence and favour one side.

34. Experts are to be selected from the best and most mature doctors who are prepared to counsel those with less knowledge.

35. Experts need to be qualified in the same discipline and the same sub-discipline as the accused doctor not the accuser, who in my experience often does not know what he is talking about and cannot know as he is unskilled in the area.

**Conflicts of interest**

36. All conflicts of interest to be declared.

37. No conflicts of interest permitted even if declared.

38. No adviser, reviewer or Tribunal member to have any connection with the accused doctor, let alone practice with them or have social relations with them.

39. No professional rivals to judge or review

40. No one who has signed a contract with the Department of Health and may have to find against their employer, against the Department of Health, is to advise, sit on a committee or a Tribunal.

41. All funds from the pharmaceutical industry to be declared

**Code of conduct**

42. All these organisations have a Code of Conduct. In the event of a breach, punitive action should be taken against the person who has breached codes of conduct

**Malfeasance misfeasance and non feasance**

43. Malfeasance in public office is a personal tort. A person can and should be held personally liable unless he or she can provide proof of being instructed to do act improperly by a Health Department or higher authority.

44. **Nonfeasance** is the failure to act where action is required - willfully or in neglect.

45. **Misfeasance** is the willful inappropriate action or intentional incorrect action or advice.

46. **Malfeasance** is the willful and intentional action that injures a party.

47. The regulators are to be independent to NSW Health, and never appointed by a Department of Health

48. Non feasance Involves failure or refusal to investigate a serious complaint involving a bad or fatal outcome

List of Changes Needed

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49. Anyone found to be committing these crimes against justice should be referred to police and legal services Commission

**Procedures**

50. All relevant information is to be put before Committees and Tribunals. That is, if the doctor has put in peer reviewed or otherwise important material to support their position, this should be put in front of every Committee and Tribunal.

51. Potentially exonerating information to be sought at all times, e.g. DNA evidence and laboratory tests on the patient.

52. Rules of evidence to apply at all times. Proper procedures and findings beyond reasonable doubt should be the standard before a doctor has his livelihood removed.

53. All correspondence with lawyers and doctors to be given to the peer reviewer and put to tribunal members.

54. No one to sit on a tribunal whom war she a judge, should recuse herself.

**Whistleblowers**

55. Persons of conscience, whistleblowers should be accorded whistleblower protection at the level, at the Board/Council level, the HCCC and at their workplace.

**Reporting to parliament**

56. Report all systemic problems in health care to Parliament. That is, the pattern of complaints will identify a systemic problem. This is in second reading speech

57. There needs to be strict enforcement of fines or imprisonment for providing false or misleading information to the Health Care Complaints Commission, to the Medical Board, to a Committee or a Tribunal. Any instances of this should be referred to the police. Perjury, that is swearing the truth of a statement that is known to be false, should be referred to the police. Knowingly accepting perjured information should be referred to the police. Ensure enforcement by reference to DPP

**Liability of peers and tribunals**

58. Tribunal and Committee members should be made personally liable if their decisions are ultra vires. They should know the law under which they operate. They include lawyers.

**Confidentiality issues**

59. Those who discover information because of their work in Tribunals or advising should be bound by confidentiality just like patient confidentiality. Breaches of confidentiality should be severely punished.
Defamation

60. All Boards should be liable for criminal defamation. (Because this was done to me.

   Criminal defamation NSW Crimes Act
   S 529 Criminal defamation
   3) Offence of criminal defamation A person who, without lawful excuse, publishes matter defamatory of another living person (the “victim”):
      (a) knowing the matter to be false, and
      (b) with intent to cause serious harm to the victim or any other person or being reckless as to whether such harm is caused.

61. Defamation must be immediately corrected if it occurs by accident. Their staff should not give false or misleading information to newspapers or to other doctors.

Alleged sexual offences

62. There are those who never do and those who do it again and again. Do not convict unless “beyond reasonable doubt.” Make provisions for modern day Eloises and Abelards who genuinely fall in love. Not all sexual relationships are exploitative and in some the patient is exploiting the doctor. Adultery with a patient is not acceptable ever, ever, or people will not trust us with their spouses. Remember 10% of doctors are married to person they first met as patients.

   If a Board or Commission is acting improperly failing to do its job

63. The Board should be sacked if a finding is made that it has failed to protect the public, committed act of misfeasance or permitted or tolerated unfair actions against doctors especially whistleblowers, In the United States many boards have been sacked and some over this prescribing issues I have tried to bring to light.