

**INQUIRY INTO REMEDIES FOR THE SERIOUS INVASION
OF PRIVACY IN NEW SOUTH WALES**

Name: Name suppressed

Date received: 18/09/2015

Partially Confidential

The Director ~ Natasha Maclaren-Jones MLC
Standing Committee on Law and Justice
Parliament House
Macquarie St
Sydney NSW 2000

RE: Remedies for the serious invasion of privacy in New South Wales (Inquiry)

Dear Ms Maclaren-Jones,

I wish to submit my story to your committee in the hope that change can be made to improve the way in which the law applies to patients who are currently not protected by any law against invasion of privacy, particularly with regards to mobile phone cameras in healthcare facilities.

On the 19th December 2015 I underwent gynaecological surgery at a private hospital in NSW. There is a long family history of uterine cancer. I was under a general anaesthetic. My legs were in stirrups. Whilst I was in this position and under a general sedation the nurse in charge of looking after me took it upon herself to take photos of my genitals with her personal mobile phone. She did not have my permission to do so nor was there any therapeutic or medical justification for the photo. I was later informed that she then shared these images with her colleagues in the recovery room. I witnessed one of these showings as I came out of my sleep. My surgeon alerted me to the incident five weeks later.

I do not know why the nurse took the photo and can only conclude that it was out of a desire to mock my physical appearance.

The nurse breached her employer's policies regarding patient confidentiality. Apparently the hospital did not (or believed it did not) have any power to compel their employee to produce the personal mobile phone for inspection and accepted her word that the unauthorised image had been deleted.

The police investigated the incident. Unfortunately the NSW Police are unable to find an applicable law that applies to this appalling behaviour. My case has since been suspended.

The voyeurism offences in section 91J and 91L of the Crimes Act 1900 (NSW) require that a photo has been taken "for the purpose of obtaining sexual arousal or sexual gratification". I understand that the police were not confident that the charge would be made out in the circumstances.

The hospital made a notification of the incident to APHRA. I also made a complaint to the Nursing Midwifery Council. The Nursing Midwifery Council reprimanded her, as this is not a serious enough offence to have her registration cancelled.

There really should be a law that makes it clear that if your unconscious on an operating table with your legs in the air and someone takes a photo of your genitals the police are called immediately to investigate. Phones should be confiscated, cloud storage attached to these phones are cleaned of any backed up images and assurances are give to victims that they don't have to wonder when or if the image/s are going to turn up in their life.

I was in the most impersonal position when these photos were taken. Surely we all deserve protection when we are vulnerable and unable to stop this kind of invasion to personal privacy.

For your information the nurse is still working as a nurse in operating theatres, in a different hospital.

I have suffered the most humiliating nine months and only recently was the full horror of this incident adequately explained to me. If the nurse had been a man, or acting for the purpose of sexual gratification we could have done something many months ago.

I have recently had to go on leave from my profession as a high school teacher, because the emotional toll has left me unable to function at my usual high level. My family are constantly worried about me as I am often teary and agitated. I am the only major source of income for my family.

I am prepared to fight for this change. I would like to have a specific law introduced to protect the rights of vulnerable patients.

Thank you