

LIFE ESIDIMENI ARBITRATION

**HELD AT: EMOYENI CONFERENCE CENTRE, 15 JUBILEE ROAD,
PARKTOWN, JOHANNESBURG**

DATE: 23rd NOVEMBER 2017 DAY

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DAY SESSION 1 – 3.

BEFORE ARBITRATOR – JUSTICE MOSENEKE

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WITNESSES:

DR MAKGABO JOHANNA MANAMELA

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23 November 2017

SESSION 1

ARBITRATOR, JUSTICE MOSENEKE: Good morning. Good morning Dr Manamela.

5**DR MAKGABO JOHANNA MANAMELA:** Good morning Justice.

ARBITRATOR, JUSTICE MOSENEKE: Where do we start? Adv. Yina, you were still busy, were you?

ADV. NONTLANTLA YINA: That is correct, Justice.

ARBITRATOR, JUSTICE MOSENEKE: Very well.

10**ADV. NONTLANTLA YINA:** Thank you.

ARBITRATOR, JUSTICE MOSENEKE: Dr Manamela, will you again put your full names on record?

DR MAKGABO JOHANNA MANAMELA: I am Makgabo Johanna Manamela.

ARBITRATOR, JUSTICE MOSENEKE: Yes thank you. Do you swear that the
15evidence you are about to give will be the truth and nothing but the truth? And if so, please raise your right hand and say so help me God.

DR MAKGABO JOHANNA MANAMELA: So help me God.

ARBITRATOR, JUSTICE MOSENEKE: Do you feel better today and are you able
to continue?

20**DR MAKGABO JOHANNA MANAMELA:** Yes Justice.

ARBITRATOR, JUSTICE MOSENEKE: Very well. Good to see you back. Adv. Yina.

ADV. NONTLANTLA YINA: Thank you Justice. Good morning Dr Manamela.

DR MAKGABO JOHANNA MANAMELA: Good morning Counsel.

5**ADV. NONTLANTLA YINA:** Just to continue with your evidence, I would like to take you through some documents please. The first one would be file number 3, if someone can assist you with file number 3, 1056. Are you on page 1056?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel.

ADV. NONTLANTLA YINA: Thank you Doctor. This is a reply which was written
10by the former MEC, Me. Qedani Mahlangu. It seems in response to questions which were imposed by the Legislature. The relevant section would be the following page, 1057. Are you on 1057?

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. NONTLANTLA YINA: I will just read out, it is in point form, I'll read out the
15relevant sections and then I will submit the proposition that I want to make. The first one is roman figure number 1: "What are the plans for the approximately 2 000 patients currently housed in their facilities when the contract is terminated in March next year?" So I would presume that is the Life Esidimeni facilities. Are you familiar with this letter? The signature appears on 1058 by former MEC, Me. Qedani
20Mahlangu. Are you familiar with the document?

DR MAKGABO JOHANNA MANAMELA: The letter is written by the MEC, signed by the MEC. I am not sure. I might be familiar with the content, but I am not familiar with it.

ADV. NONTLANTLA YINA: Thank you. And then in response to that question 5 which would appear was imposed by the Legislature, she says: “Patients legible for discharge, will be discharged back to their respective families and they will receive their treatment in the local clinics. The remaining patients will be transferred to Gauteng Department of Health psychiatric hospitals and identified NGOs.” It would seem that was the plan, that is how the Department planned to deal with patients 10 that would be moved from Life Esidimeni, firstly was to transfer to those who were ready to go home, to discharge them to their homes and to transfer others to the psychiatric hospitals and to transfer others to NGOs. Was that your understanding also?

DR MAKGABO JOHANNA MANAMELA: Yes.

15 **ADV. NONTLANTLA YINA:** Thank you. Then the next point: “What are the identified hospitals and/or premises where they will be placed?” And then the response is: “Weskoppies Hospital, Sterkfontein Hospital and Cullinan Care, unused part of Tshwane District Hospital, Transvaal Memorial Institution, Pinar and Old Johannesburg Hospital, as well as existing NGOs.” Was that also your 20 understanding that those would be the institutions that would be used?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel.

ADV. NONTLANTLA YINA: And of importance here is that on 11 August or rather 18 November 2015, which is the date of the letter, it would seem that the Department had planned to use those institutions that I read out, as well as existing NGOs, am I correct?

5**ARBITRATOR, JUSTICE MOSENEKE:** The witness has already said so. Yes that is her understanding of the plan.

ADV. NONTLANTLA YINA: Thank you Justice. And then roman figure number 3 ...intervened.

DR MAKGABO JOHANNA MANAMELA: Can I come in there? I said yes before 10you were coming to the date of the 18th of November. That one I think I still need to hear, what is your question relating to that? The yes is, I am familiar with the document, but as at this date. Can you carry on with that?

ADV. NONTLANTLA YINA: If you go to page 1056, the page before the page that I am reading now, you will note that the date on the letter is 18 November 2015. 15Right at the top, top right corner. And you will also note on page 1058 that the letter was signed by the former MEC, Me. Qedani Mahlangu, on 18 November 2015. So my proposition to you then is that this was the position or this was the plan as at 18 November 2015. Is that so or not?

DR MAKGABO JOHANNA MANAMELA: That is correct.

20**ADV. NONTLANTLA YINA:** Thank you. That is all that I wanted to establish. And then: “How many beds will be available for them at each hospital or other premises identified in above?” “Name of hospital or other premises identified and the number

of beds: Weskoppies number of beds identified 460. Sterkfontein Hospital 230. Cullinan Care 148. Tshwane District unused part 60 beds. Transvaal Memorial Institution 151. Pinar 38. Old Johannesburg Hospital 150. Existing NGO vacant beds 214. Additional NGO beds 377. In total 1784 beds were identified.” Is that the case?

ARBITRATOR, JUSTICE MOSENEKE: Is that the case, you mean was that the plan?

ADV. NONTLANTLA YINA: Was that the plan to use those beds from those institutions in that order?

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. NONTLANTLA YINA: Thank you. And then if you read now roman figure number 4, the question was: “Approximately how many of the 2 000 patients currently at Life Health Care Esidimeni are assessed as requiring long term care and supervision in a protected environment?” The answer is: “1 671 need long term care, which can be provided at the NGOs and homes. NGOs will accommodate 113 patients that need medium term care, but that are categorised as high level function patients.” Now the question here is, was the plan to transfer only 113 to the existing NGO, 113 patients, was that the plan?

ARBITRATOR, JUSTICE MOSENEKE: But Counsel, you have to, that need medium care, medium term care. So 113 would be those that need medium.

ADV. NONTLANTLA YINA: Justice, it says NGOs will accommodate 113 patients that need medium term care.

ARBITRATOR, JUSTICE MOSENEKE: Yes.

ADV. NONTLANTLA YINA: But that are categorised as high level function. But the gist of the question is that NGOs is going to accommodate 113 patients, or maybe the witness can clarify if that was the case.

5**ARBITRATOR, JUSTICE MOSENEKE:** Yes, sure. The question is long term and short term.

ADV. NONTLANTLA YINA: Yes.

ARBITRATOR, JUSTICE MOSENEKE: And that 113 seem to relate to short term, medium term, I am sorry. But the witness can just confirm whether that was the
10plan in November 2015.

DR MAKGABO JOHANNA MANAMELA: Thank you Justice. I must say the letter is not written by me, although I know the contents and I will be unable to comment on many of what is be written by me. It is not written by me and it was not signed by me and it was never in my office. And I think I may not comment on the
15information that has been written here.

ADV. NONTLANTLA YINA: Fair enough. I will then request us to go to file number
7.

ARBITRATOR, JUSTICE MOSENEKE: I think, Counsel, it might be helpful to indicate to the witness that this was a response to Legislature questions, which
20were made known and read out publically by the MEC, meant to convey the plan. I

thought the question... it is not whether or not the witness wrote the letter but whether or not ...intervened.

ADV. NONTLANTLA YINA: That was the plan.

ARBITRATOR, JUSTICE MOSENEKE: This coincides with the plan.

5**ADV. NONTLANTLA YINA:** I will demonstrate that shortly, Justice, if you give me a minute.

ARBITRATOR, JUSTICE MOSENEKE: Okay.

ADV. NONTLANTLA YINA: Yes. File number 7, page 2658. Yes that should be the page. 2658. If you can just put your finger at 2658 and run with the document
10up to 2667.

DR MAKGABO JOHANNA MANAMELA: Okay.

ADV. NONTLANTLA YINA: Yes, at the bottom there this seems like this was a presentation in a form of slides. Am I correct? Am I correct, Doctor?

DR MAKGABO JOHANNA MANAMELA: Can you come again?

15**ADV. NONTLANTLA YINA:** This looks like a presentation which was in the form of slides, am I correct?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel.

ADV. NONTLANTLA YINA: And at the bottom it says: “Thank you, Dr M.J. Manamela, Director Mental Health Services.” That would be you.

20**DR MAKGABO JOHANNA MANAMELA:** Correct.

ADV. NONTLANTLA YINA: So are you the one who presented this document?

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. NONTLANTLA YINA: Yes. If you could then go to 2661.

ARBITRATOR, JUSTICE MOSENEKE: Can we know when was it presented, where it was presented, to whom it was presented?

ADV. NONTLANTLA YINA: When was the presentation made, Doctor, because it doesn't have a date of signature, do you remember?

DR MAKGABO JOHANNA MANAMELA: There is a date here, 15 July 2015.

ADV. NONTLANTLA YINA: Okay, so it was presented on that date. And to whom was it presented to?

DR MAKGABO JOHANNA MANAMELA: It was presented to the Executive.

ADV. NONTLANTLA YINA: Okay. Now if you read from page 2661 ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Which Executive is that? You mean senior management?

15**DR MAKGABO JOHANNA MANAMELA:** The Executive of the Department, that was the Chief Director, Deputy Director General, the HOD of the Department and the MEC. And as I am still on this point, I want to put it clear to Justice that I am not appreciating as it was said that I am the commander in charge. I was just called to present. So I am not the commander in charge, the Executive, I went to present to
20the executive as I have indicated. Thank you.

ADV. NONTLANTLA YINA: We'll get to that just in a moment. Thank you. 2661 there are two options that are listed there. Can you briefly tell us what were those options about, were they options about moving patients from Life Esidimeni, am I correct?

5**DR MAKGABO JOHANNA MANAMELA:** The two options was to identify hospitals that still have empty beds.

ADV. NONTLANTLA YINA: Sorry, Doctor, if I may interject. These were the options in relation to the patient that were at Life Esidimeni when the contract is terminated.

10**DR MAKGABO JOHANNA MANAMELA:** Yes, it was the presentation that indicated what are the options and it was still a map, you know, we were still mapping on what needs to be done.

ADV. NONTLANTLA YINA: Yes.

DR MAKGABO JOHANNA MANAMELA: Yes.

15**ADV. NONTLANTLA YINA:** I understand that part. And then if, on option number 1 it says, bullet point number, the last bullet point which starts with the three: "The three psychiatric hospitals and existing NGOs will take the bulk of mental health care users, while the other hospitals will increase or open acute service. The other users has to be discharged to home." That was the first option.

20**DR MAKGABO JOHANNA MANAMELA:** That is correct.

ADV. NONTLANTLA YINA: Yes, so this ties in with the letter of the MEC dated 18 November 2015 that the plan was to transfer the patient to the psychiatric hospitals and some to the existing NGOs and to discharge some home – that is the point that I wanted to make

5**DR MAKGABO JOHANNA MANAMELA:** That is correct.

ADV. NONTLANTLA YINA: You agree with that, yes. Then option number 2 it says: “Some hospitals like Old Germiston, Mamelodi and Tshwane Hospital can be used as NGOs for chronic users.” Am I correct?

DR MAKGABO JOHANNA MANAMELA: I agree with it.

10**ADV. NONTLANTLA YINA:** So basically that was the plan. Now if you could go to page 2662. 2662 it would seem that you wrote hospitals, number of beds identified, status of the wards and the budget. And then you indicate: Weskoppies, number of beds identified 416. Sterkfontein 110. Cullinan 148. All of them they needed to be renovated but the total was 670. Am I correct?

15**DR MAKGABO JOHANNA MANAMELA:** You are correct, Counsel.

ADV. NONTLANTLA YINA: Now if you move to 2665. 2665, just in the middle of the page it says: “Total available beds if renovated, 971.” And then there is an issue of budget for Weskoppies, Sterkfontein and Cullinan. Am I correct?

DR MAKGABO JOHANNA MANAMELA: Yes, I just saw it. You are correct.

20**ADV. NONTLANTLA YINA:** Yes. So the point that I wanted to demonstrate is that when the contract was terminated with Life Esidimeni, the Department planned to

absorb most of the patients to the psychiatric institutions and to discharge some home and others, to send others to existing NGOs – that is also apparent from your own presentation, am I correct?

DR MAKGABO JOHANNA MANAMELA: Can you come again, Counsel?

5**ADV. NONTLANTLA YINA:** The point that I wanted to make is that, from the presentation, this presentation that we just read and the letter of the MEC is that the plan in respect of the patients that were at Life Esidimeni, it was to send them to the psychiatric hospitals and to transfer some to the existing NGOs and to discharge some home, from these two documents.

10**DR MAKGABO JOHANNA MANAMELA:** Yes, but the two documents are not the same. The one to legislator has indicated the number of beds, that was the question that you were asking me. The number of patients that will go to NGO. My presentation was presenting that some patients will go to the NGOs, some to the hospitals and some to the existing NGOs. It doesn't have how many numbers, but
15we worked towards how many beds can be the one that we can plan around – that is number 1. Number 2, at that time, in July, there was no letter of termination, we were still talking on the 20% reduction of beds at Life Esidimeni.

ADV. NONTLANTLA YINA: On page 2665 now you have 974 beds available, if renovated, and this is still the psychiatric hospitals.

20**DR MAKGABO JOHANNA MANAMELA:** Yes Counsel, and you qualify it, if renovated, 976 if renovated, you are correct.

ADV. NONTLANTLA YINA: And then if you go to page 2667 – or rather before you get to 2667, 2666 at the bottom again it says: “NGOs, normal discharge to NGOs will continue. Currently there are 116 spaces for the identified NGOs during the targeted reduction.” At the bottom, the last sentence.

5**DR MAKGABO JOHANNA MANAMELA:** Yes, you are correct with this one and this was meaning the empty NGO beds in the NGOs that we have licensed for that period 2015/2016 at this time.

ADV. NONTLANTLA YINA: Which were existing NGOs.

DR MAKGABO JOHANNA MANAMELA: Yes. There were no new NGOs, there
10was no letter of termination. We are counting the beds almost every month, we are taking the beds in the NGOs so that we can see how we are doing in terms of community services. This is the number, it is not a number that is indicating at the Legislature question, which was presented after the termination letter or notice was sent.

15**ADV. NONTLANTLA YINA:** Yes. So if you now go to page 2667 on the conclusion, the last sentence: “If renovations are done at the moment, we can accommodate a total of 1 164 currently. We will continue to establish beds either from NGOs, close hospitals and also to ensure that the users are rehabilitated and discharged home.” So now in 2667 you now have 1 164 beds, I assume from the
20psychiatric hospitals, am I correct, you have identified?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel.

ADV. NONTLANTLA YINA: So you intended to transfer 1 164 to the psychiatric hospitals.

DR MAKGABO JOHANNA MANAMELA: It says either from NGOs, close hospitals and also in the hospital that is acute. It is not saying that we will take 1 5164 to the hospital. It says hospital or NGO and close hospital that is appearing on the Legislature response – that is what it says, it doesn't say that.

ADV. NONTLANTLA YINA: Are you reading page 2667?

DR MAKGABO JOHANNA MANAMELA: Yes, I am at page 2667.

ADV. NONTLANTLA YINA: At the conclusion, the last sentence there.

10**DR MAKGABO JOHANNA MANAMELA:** Yes.

ADV. NONTLANTLA YINA: From where it says: "If renovations are done at the moment. At the moment we can accommodate a total of 1 164."

DR MAKGABO JOHANNA MANAMELA: Yes, I am at it, because this total, according to my presentation on the 15th of June, includes the totals of all the 15identified unused building under the infrastructure of Gauteng Department of Health, so that is why you see the number of beds as the total.

ADV. NONTLANTLA YINA: Yes.

DR MAKGABO JOHANNA MANAMELA: That includes Germiston, Pinar, Johannesburg... some of them that are indicated here.

20**ADV. NONTLANTLA YINA:** Yes. And on Monday you testified that the renovations didn't materialise, didn't go well.

DR MAKGABO JOHANNA MANAMELA: May you also, can you also raise your voice, this... ja.

ADV. NONTLANTLA YINA: On Monday you testified that the renovations were not done, they didn't succeed.

5**DR MAKGABO JOHANNA MANAMELA:** Not all, not all was not succeeded. On Monday you ask question, before I answer you ask another one. Not all these hospitals that are listed here were renovated, even the psychiatric hospitals were not renovated, all the wards that were there for this process.

ADV. NONTLANTLA YINA: Okay maybe let me ask the question again then. Of 10the hospitals that you had listed and you had hoped that they would be renovated at the end of March, which ones were renovated?

DR MAKGABO JOHANNA MANAMELA: Weskoppies was renovated, Sterkfontein and Cullinan were renovated.

ADV. NONTLANTLA YINA: And how many patients were transferred to 15Weskoppies?

DR MAKGABO JOHANNA MANAMELA: I have to check, because I don't remember. I have been out of the service for a year, but totally all our hospitals took 358 patients.

ADV. NONTLANTLA YINA: So you did not meet the target of 1 164.

20**DR MAKGABO JOHANNA MANAMELA:** The target of 1 164?

ADV. NONTLANTLA YINA: Yes appearing on 2667.

DR MAKGABO JOHANNA MANAMELA: You need to look at the target indicated for Weskoppies, Cullinan and Sterkfontein.

ADV. NONTLANTLA YINA: In total?

DR MAKGABO JOHANNA MANAMELA: Ja. If you talk to that total, I will agree. 5But if you include the total of the unused hospital, then we cannot talk on that related to the hospital that I just indicated. You can add the hospital and then we can take it from there.

ADV. NONTLANTLA YINA: If you go back to page 2662, please. 2662 you had identified 670 beds from the three hospitals that you mentioned.

10**DR MAKGABO JOHANNA MANAMELA:** Yes.

ADV. NONTLANTLA YINA: Did you meet that target?

DR MAKGABO JOHANNA MANAMELA: We didn't meet that.

ARBITRATOR, JUSTICE MOSENEKE: What do you mean by did you meet the target, Counsel, I am not sure?

15**ADV. NONTLANTLA YINA:** Did you manage to transfer 670 patients to those institutions?

DR MAKGABO JOHANNA MANAMELA: We had managed to transfer 358 patients, if I am correct, to this hospital. And also, mind you, the Cullinan one was also the one that was 100 beds at Cullinan, were the beds that were used by the 20NGO. So it means you can add 358 beds plus 100 beds, which can be the beds that we managed to renovate.

ADV. NONTLANTLA YINA: Then if you go to ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: I don't understand that either. Beds that you managed to renovate?

DR MAKGABO JOHANNA MANAMELA: We managed to renovate the beds in 5Weskoppies Hospital, Sterkfontein and Cullinan.

ARBITRATOR, JUSTICE MOSENEKE: Okay.

DR MAKGABO JOHANNA MANAMELA: And that does not mean that all the beds that are here, we managed to renovate all of them, because there were other variables that were to be considered for us to renovate each and every hospital bed 10as indicated.

ADV. NONTLANTLA YINA: So you transferred patients to psychiatric hospitals, 358 in total.

DR MAKGABO JOHANNA MANAMELA: Yes Counsel.

ADV. NONTLANTLA YINA: Yes. And then when did you realise that you will not 15be able to get the beds that you identified earlier on, that you would not meet that target?

DR MAKGABO JOHANNA MANAMELA: It is just a pity that I couldn't take you through the evidence that I have, I am now exposed to questions, I'll take you back. Because as we plan mental health care services, according to the project as we 20have, we are also upscaling community mental health care services. That will include that community services should be available for mentally ill people in the

community, in the NGOs, clinics and the rest. So we continued, this was the first presentation that we presented to the Executive, as I indicated, to say at the moment this is what we were thinking. And at the end of the day we haven't stopped there, we are continually meeting the NGO, looking at other hospitals as well. It was not just a done deal plan that we say okay it is fine, it is okay, it is what we are going to do tomorrow. And by that time I didn't even know that we will terminate Life Esidimeni. I was still also working towards the 20% reduction plus 200 beds that must be reduced almost every year according to our policy.

ADV. NONTLANTLA YINA: When did you realise that you will not be able to transfer patients to the psychiatric institutions to the beds that you had identified, do you remember?

DR MAKGABO JOHANNA MANAMELA: I don't remember. But what I can tell this proceeding is that continuation of us ensuring that we upscale the community mental health care services was never stopped, even before the reduction, the termination. We were saying these patients are family members, they need to be next to the family. We are endeavouring to ensure that if anyone can be discharged and still be called a mother or father at home, we'll appreciate that. So it was never a done deal and we never stopped endeavouring to identify places where they will be.

ADV. NONTLANTLA YINA: Let me ask this question differently. You made a presentation ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Of course it will help ...intervened.

ADV. NONTLANTLA YINA: You made a presentation ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Counsel. It will help if Counsel puts short questions and the witness answers the questions directly, so that we can make a lot of progress. Let's reduce the words and get to the core. I would like to hear 5 answers to specific pointed questions, please, so that we can get the evidence down and make progress. So I ask both to be pointed and to reduce the words and let's get to the core, please.

ADV. NONTLANTLA YINA: Thank you Justice. Dr Manamela, the point that is apparent from the presentation that you made and the letter that was written by 10 former MEC to the Legislature is that the Department... you are saying you made a presentation before the termination, am I correct?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel.

ADV. NONTLANTLA YINA: The letter, however, was written after the termination, do you agree?

15 **DR MAKGABO JOHANNA MANAMELA:** I agree.

ADV. NONTLANTLA YINA: Yes, they are called to a greater extent, do you agree?

DR MAKGABO JOHANNA MANAMELA: They are?

ADV. NONTLANTLA YINA: They agree, they are in parallels.

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. NONTLANTLA YINA: What is stated in your presentation and what is stated in the letter are in parallels, do you agree? Your presentation confirms what is contained in the letter – that is what I am trying to say.

DR MAKGABO JOHANNA MANAMELA: Not to all the issues.

5**ADV. NONTLANTLA YINA:** Not to all the issues, but the main issues are confirmed.

DR MAKGABO JOHANNA MANAMELA: Yes, some of the issues are.

ADV. NONTLANTLA YINA: Let me tell you what is confirmed. The number of beds at Weskoppies is the same identified. The number of beds identified at
10Cullinan is the same, the only difference is that former MEC, actually it does accord, because she wrote Sterkfontein Hospital 110 and then 120 for the NGOs. And also the fact that in both your presentation and the letter, it would appear that the patients were to be transferred to the psychiatric hospitals, am I correct, to the NGOs, existing NGOs, am I correct?

15**DR MAKGABO JOHANNA MANAMELA:** To the NGOs.

ADV. NONTLANTLA YINA: To the existing NGOs.

DR MAKGABO JOHANNA MANAMELA: It is not saying existing. The letter is not just existing, because the NGOs is not only NGOs that exist that ...intervened.

ADV. NONTLANTLA YINA: Can I read it for you out please? The letter is file
20number 3 page 1057.

DR MAKGABO JOHANNA MANAMELA: Mm.

ADV. NONTLANTLA YINA: Under roman figure number 2, the last part says existing NGOs. Your presentation page 2667 file number 7, under option number 1 the last bullet point, the three psychiatric hospitals and existing NGOs. Do you agree?

5**DR MAKGABO JOHANNA MANAMELA:** 266?

ADV. NONTLANTLA YINA: Page 2661.

ARBITRATOR, JUSTICE MOSENEKE: Of course we could cut through all of this and ask the witness, where did the MEC source information in her letter of November 2015? And she might very well tell you it was from her documents and 10that is the end of the enquiry.

DR MAKGABO JOHANNA MANAMELA: You said I must read option 1 point 3, existing NGOs. Now you cannot deal with this excluding the option 2. At the time of my presentation, the old Germiston, Mamelodi and the rest of these hospitals indicated, were not yet existing NGOs. So we cannot just now shift to existing 15NGOs, because we are also renovating this hospital to be used by NGOs.

ARBITRATOR, JUSTICE MOSENEKE: In November 2015, the MEC made a statement to parliament, to the Legislature, right, you were referred to that statement on page 1057. Where did the MEC get that information from that he told to the Legislature and to the whole nature?

20**DR MAKGABO JOHANNA MANAMELA:** It depend how do you or anybody understand. I won't answer for the MEC. But it depend how do you understand it.

ARBITRATOR, JUSTICE MOSENEKE: No, it depends on nothing. Listen to my question.

DR MAKGABO JOHANNA MANAMELA: Okay, it depends on nothing.

ARBITRATOR, JUSTICE MOSENEKE: Where did the MEC source her information about Life Esidimeni project? Who gave the MEC the statistics and the details?

DR MAKGABO JOHANNA MANAMELA: I am not sure, Justice, because some of the information here is the information that I presented. So I am not sure what is the meaning of existing NGO and the new, where there were no existing, that were not existing. Like Old Germiston was not the NGO – that is the point I want to make.

ARBITRATOR, JUSTICE MOSENEKE: I am pleading again to you, just listen to me please and give me a short answer. Did you furnish the MEC with information that is set out in her statement to the Legislature?

DR MAKGABO JOHANNA MANAMELA: We do. When there is a Legislature question and the MEC will need information, we will give information. But as you see, I am not the one who wrote on this.

ARBITRATOR, JUSTICE MOSENEKE: In fact it doesn't matter what you wrote in July 2015. In November 2015 she goes and tells the nation here is the plan, okay, and you are asking questions about it. Did you furnish her with the information that she furnished to the Legislature and to the nation?

DR MAKGABO JOHANNA MANAMELA: Yes Justice.

ARBITRATOR, JUSTICE MOSENEKE: Ja, done.

DR MAKGABO JOHANNA MANAMELA: Can I qualify that?

ARBITRATOR, JUSTICE MOSENEKE: Yes, you may.

DR MAKGABO JOHANNA MANAMELA: The presentation was made ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Remember always to be brief, but you may qualify.

DR MAKGABO JOHANNA MANAMELA: I'll be brief, Justice. Presentation was made in July. From July we've been working, there was a termination letter that was sent out as well. By that time I believe when she presented in November, she's been presented with number of the existing NGOs. So I want it to be worked on in that context.

ARBITRATOR, JUSTICE MOSENEKE: No that is fine, but you are the source of the information that a political principle would give to parliament about your Department, right?

DR MAKGABO JOHANNA MANAMELA: Yes Justice.

ARBITRATOR, JUSTICE MOSENEKE: Thank you. Let's proceed.

ADV. NONTLANTLA YINA: Thanks Justice. I am moving on. Now on Monday you testified that the first meeting that you had with the NGOs was on the 30th of November 2015. Am I correct?

DR MAKGABO JOHANNA MANAMELA: 30th? I think I am not quite sure, you said October or November 13, somewhere there. I am not sure of the number because I didn't have the documents.

ADV. NONTLANTLA YINA: You know the point that I wanted to make is that the 5 new NGOs were an afterthought, they were never part of the plan. I will demonstrate that to you just now. For example, if you go to page 2669 ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Counsel, let's put it to her, let her respond to that. NGOs were an afterthought. Let us pause there and let the witness confront 10 that submission.

ADV. NONTLANTLA YINA: Thank you Justice.

ARBITRATOR, JUSTICE MOSENEKE: Thank you.

ADV. NONTLANTLA YINA: On the two documents that I have shown you, it is apparent that NGOs, the placement of patients to the NGOs was an afterthought 15 after the plan of renovations failed.

DR MAKGABO JOHANNA MANAMELA: No Counsel.

ADV. NONTLANTLA YINA: Now let's go to page 2669 on the same file. The document starts from page 2668. It looks like this is a presentation that was done by Me. M. Moruwane (spelling) on the 3rd of February 2016. Do you know her?

20 **DR MAKGABO JOHANNA MANAMELA:** 2669?

ADV. NONTLANTLA YINA: 2668.

DR MAKGABO JOHANNA MANAMELA: 2668.

ADV. NONTLANTLA YINA: Your hand is on 2668.

DR MAKGABO JOHANNA MANAMELA: Alright.

ADV. NONTLANTLA YINA: Do you know Me. M. Moruwane?

5**DR MAKGABO JOHANNA MANAMELA:** Yes, I know her.

ADV. NONTLANTLA YINA: Was she working with you in the Department?

DR MAKGABO JOHANNA MANAMELA: Can you raise your voice, Counsel?

ADV. NONTLANTLA YINA: How do you know her?

DR MAKGABO JOHANNA MANAMELA: I know her as the Chief Director for
10Johannesburg Region Health Services.

ADV. NONTLANTLA YINA: Was she part of the team?

DR MAKGABO JOHANNA MANAMELA: She was part of the team.

ADV. NONTLANTLA YINA: Okay. So if you go to page 2669, I will just show you
something in respect of three NGOs. So the first one appears on page 2669 and
15that will be Takalani Home. Can you see Takalani Home?

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. NONTLANTLA YINA: In Takalani Home it says type of service: Child
residential. Current license: 60. Vacant beds: 40. Possible expansion: 100. So
Takalani, according to this document, they were licensed to take 60 patients and it
20was a child residential facility. Do you agree? And in February they are telling you

that there is a possibility of expansion by 100, which means they will double the size in a month. And now if you go to... or do you want to comment there?

DR MAKGABO JOHANNA MANAMELA: Yes. You say they will double the size in a month?

5**ADV. NONTLANTLA YINA:** The size of the facility.

DR MAKGABO JOHANNA MANAMELA: The presentation is not mine. I may not fully talk to it. But to my knowledge, immediately the termination letter was out or even before, we were also working on it. The fact that they were only going to expand by 100 beds in February, may not be correct.

10**ADV. NONTLANTLA YINA:** Okay. Now if you are on the same file, if you go to page 2404, backward, 2404. Are you on page 2404?

DR MAKGABO JOHANNA MANAMELA: Almost there. Yes, I am.

ADV. NONTLANTLA YINA: That is a license that was issued by you, am I correct?

DR MAKGABO JOHANNA MANAMELA: Yes, you are correct, Counsel.

15**ADV. NONTLANTLA YINA:** And you issued the license for 200.

DR MAKGABO JOHANNA MANAMELA: Yes you are correct.

ADV. NONTLANTLA YINA: And even though they indicated they were child residential facility, on the license it doesn't say that they should operate as a child residential facility. It simply says residential facility.

20**DR MAKGABO JOHANNA MANAMELA:** Yes, can I explain that?

ADV. NONTLANTLA YINA: You may.

DR MAKGABO JOHANNA MANAMELA: All the mentally intellectual patients coupled with ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Mentally intellectual patients?

5**DR MAKGABO JOHANNA MANAMELA:** Intellectual disability patients, mental intellectual disability patient, coupled with physical disability, they are termed as children because of the mind capacity. And when you go to Takalani now, you won't find, that when we say children, there are maybe less than five children. So I wanted to clarify that.

10**ADV. NONTLANTLA YINA:** So all of them, irrespective of their age, they are termed as children?

DR MAKGABO JOHANNA MANAMELA: Yes, they are termed as children.

ADV. NONTLANTLA YINA: Okay I'll just show you one thing again. If you go to page 2681 of the same file.

15**ARBITRATOR, JUSTICE MOSENEKE:** I thought you'd ask the witness, how did she arrive at the number of 200 on the license, I thought that is where we are going.

ADV. NONTLANTLA YINA: Thank you, Justice. I wanted to combine the three, I am just going to pick two more.

ARBITRATOR, JUSTICE MOSENEKE: Well ask her now. Short question.

20**ADV. NONTLANTLA YINA:** Yes. How did you issue the license for Takalani for 200 when they specifically told you that they had 40 vacant beds?

DR MAKGABO JOHANNA MANAMELA: Thank you. Justice, according to the presentation by Me. Moruwane, she said that they will extend by 100 and they are the ones who submitted a request for 200 licensing.

ADV. NONTLANTLA YINA: So you issued it based on the information that was given to you without checking it.

DR MAKGABO JOHANNA MANAMELA: I didn't say without checking it.

ADV. NONTLANTLA YINA: Did you check it?

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. NONTLANTLA YINA: How did you check it?

10**DR MAKGABO JOHANNA MANAMELA:** I think I said that yesterday, how do we check.

ADV. NONTLANTLA YINA: You can say it again. How did you check Takalani? How did you check that they had moved now from having 40 beds to having 140 beds within a space of a month?

15**DR MAKGABO JOHANNA MANAMELA:** First let me correct when you say within a space of a month. From the beginning of the project, the district identifying the NGO beds, then they evaluate or audit those NGO beds. If they are new NGO, we send our team from my office, the NGO manager, to go and assess again with them. Thereafter they submit the beds in their NGO to us to do two things: to
20provide license, to recommend for budget, even if they have already recommended the budget.

ADV. NONTLANTLA YINA: In an ideal world, but was that done with Takalani?

DR MAKGABO JOHANNA MANAMELA: It was done.

ADV. NONTLANTLA YINA: Okay let me quickly prove something to you, if you can quickly go to page 2698. At the bottom of page 2698 there is a list of NGOs which were visited by doctors for assessment and Takalani is not one of them. It says: Doctors went on the visitation to NGOs to do the walk about to assess the readiness of the NGOs. NGO name, date signed off, ready/not ready. Takalani is not listed amongst them, only five NGOs were listed according to this document.

DR MAKGABO JOHANNA MANAMELA: You are correct. Can I qualify that? Because when we went to the NGOs to visit them, it doesn't mean that all of them the doctors visited, because we don't have enough psychiatrists. But the mental health coordinators in the district visited. Fortunately for Takalani, myself and Chief Director and Prof Mosa, we also did visit Takalani and I also have a copy for Takalani. But by the time that this presentation was made, these were the ones that were visited already, maybe at that time, because ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Did you visit Takalani?

DR MAKGABO JOHANNA MANAMELA: Myself, yes, I did visit Takalani.

ARBITRATOR, JUSTICE MOSENEKE: How did you find the conditions there?

DR MAKGABO JOHANNA MANAMELA: Takalani, when we visited there, the place was eligible to accommodate the patients.

ARBITRATOR, JUSTICE MOSENEKE: Did it have 200 beds?

DR MAKGABO JOHANNA MANAMELA: We visited Takalani before they had the patients, but they had the beds.

ARBITRATOR, JUSTICE MOSENEKE: Did they have 200 beds? It is a very specific question.

5**DR MAKGABO JOHANNA MANAMELA:** The day I went they had 200 beds, but they can still add beds, if the space is available. But I went myself and Chief Director And Prof Mosa.

ARBITRATOR, JUSTICE MOSENEKE: So they had vacant beds of what, of 40. They now had added 100 and you saw that before you issued the license.

10**DR MAKGABO JOHANNA MANAMELA:** They added the beds and it was said to me that I should the license.

ARBITRATOR, JUSTICE MOSENEKE: How many people died at Takalani after you issued the license? How many bodies were taken out of there?

DR MAKGABO JOHANNA MANAMELA: After... I am not quite sure of the number
15because I left earlier.

ARBITRATOR, JUSTICE MOSENEKE: Let's look at the Ombud's report.

DR MAKGABO JOHANNA MANAMELA: What I know is that... I am not quite sure of the exact number.

ARBITRATOR, JUSTICE MOSENEKE: Well I'll give you the exact number and I'll
20refer you to it and I want you to look at it.

ADV. NONTLANTLA YINA: It will be ELAH57.

ARBITRATOR, JUSTICE MOSENEKE: (Inaudible) NGO from 40 to 200 and you tell me it was all okay and people start dying once you moved them there. Look at ELAH ...intervened.

ADV. NONTLANTLA YINA: It is 57, Justice.

5**ARBITRATOR, JUSTICE MOSENEKE:** Pardon, Counsel?

ADV. NONTLANTLA YINA: It will be ELAH57.

ARBITRATOR, JUSTICE MOSENEKE: Thank you. Let us cut to the chase. I don't understand how you could say you went there and it was all fine and you send people there and they die. How must I believe it is all fine and people start dying?
10Now if you look at page 8 as numbered by the Ombud or page 8 on the left corner, there is a graph there or a schedule, if you like, of total death per facility for the period 2016 to 2017, can you see that?

DR MAKGABO JOHANNA MANAMELA: Page 8, Justice?

ARBITRATOR, JUSTICE MOSENEKE: One of my assistants will help you get
15there.

DR MAKGABO JOHANNA MANAMELA: I found it.

ARBITRATOR, JUSTICE MOSENEKE: Have you found it? If you look at the bottom of that schedule, it shows you Mosego (?) Takalani, can you see that? In March one person died, in May three died, in June six died, in July five patients
20died, in August five died, September one, October six human beings lost their lives. And there it runs and goes. Can you see that, Doctor?

DR MAKGABO JOHANNA MANAMELA: I see that.

ARBITRATOR, JUSTICE MOSENEKE: Do you care to add up those people who lost their lives there after you issued a license, you allowed a hundred people to go and live there?

5**DR MAKGABO JOHANNA MANAMELA:** Justice.

ARBITRATOR, JUSTICE MOSENEKE: Yes, I am listening.

DR MAKGABO JOHANNA MANAMELA: Yes, it is written Mosego Takalani. I indicated on the first day that it was said in this proceeding that the document that we provided to the Ombud, he didn't use them. Takalani is not Mosego. I visited 10Takalani. Takalani is Takalani for children and Mosego is psycho (inaudible). So if you put them together, obviously the number will be high. But if you put Mosego, how many died at Mosego.

ARBITRATOR, JUSTICE MOSENEKE: Okay you know better. That is what the Ombud tells us, how many people died at Takalani.

15**DR MAKGABO JOHANNA MANAMELA:** Justice, I am not saying that I know better.

ARBITRATOR, JUSTICE MOSENEKE: How many died? Just answer me.

DR MAKGABO JOHANNA MANAMELA: I can check all of them here but I think this number is inclusive of Mosego.

20**ARBITRATOR, JUSTICE MOSENEKE:** How many died at Takalani that you visited?

DR MAKGABO JOHANNA MANAMELA: I left the beginning of this year, but plus/minus 7 to 11, I am not sure about Takalani alone. Now we need to look at how many died at Mosego.

ARBITRATOR, JUSTICE MOSENEKE: You see the State where you used to work have admitted this document as a true reflection of the facts and we are told that is the number of people who died after you issued the license, allowing them to take 100 patients there. So I want to know how many people died, did you track, did you go and look and follow?

DR MAKGABO JOHANNA MANAMELA: Yes, I can check in my file, but what I am saying here, Justice, is that Takalani has its own death and has got its own premises and Mosego is another NGO. And I went with Professor ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Owned by the same people?

DR MAKGABO JOHANNA MANAMELA: It is not the same people. That is another area where people didn't understand and didn't want to listen when we tell them what is happening. I am not protecting anybody, Justice, I am telling the fact and the truth as I was asked. Mosego is in the Westrand area. Takalani is in Johannesburg. That is why the Chief Director of Johannesburg went with Prof Mosa. Prof Mosa cannot work in Westrand, there are others in Westrand.

ARBITRATOR, JUSTICE MOSENEKE: Can you give me the number of people who died after you licensed ...intervened.

DR MAKGABO JOHANNA MANAMELA: I don't have ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Patients to be taken at Takalani that you know.

DR MAKGABO JOHANNA MANAMELA: At the moment I will be unable to give you the exact number.

5**ARBITRATOR, JUSTICE MOSENEKE:** Would you give me the number of people who died in both Mosego and Takalani after you issued the licenses?

DR MAKGABO JOHANNA MANAMELA: I cannot be in a position to give you that number for now, because the number of deaths ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: In any event, why did you terminate the
10contract, when you did not have enough NGOs? We have been going backwards and forwards this morning about how many NGOs were there or not. Now why did you terminate the contract, when you did not have beds equivalent to the patients you wanted to move around?

DR MAKGABO JOHANNA MANAMELA: Thank you Justice. In the first place I will
15say I didn't terminate the contract, but we worked towards establishing those beds. That is why from the beginning we included the NGOs. That is the answer I can give.

ARBITRATOR, JUSTICE MOSENEKE: Now why did (inaudible)? You made a presentation to Executive and the title is Esidimeni Project.

20**DR MAKGABO JOHANNA MANAMELA:** Yes that was the project ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: And you told your Executive how many beds you will be able to find, right.

DR MAKGABO JOHANNA MANAMELA: Yes Justice.

ARBITRATOR, JUSTICE MOSENEKE: And what beds were they for?

5**DR MAKGABO JOHANNA MANAMELA:** They were for the patients, you said so well in July, they were for the patients that the Gauteng 20/20 vision strategy want us to discharge patients, 200 patients from Life. On top of that, I alluded last that there was a 20% that was added and Life Esidimeni declared dispute. So we were working on that in July. But in September we were told, we knew that even if we
10reduce 200 and 20%, in this country, in this province we would still need more beds.

ARBITRATOR, JUSTICE MOSENEKE: Did you have enough beds for the people that you were going to get out of Life Esidimeni?

DR MAKGABO JOHANNA MANAMELA: At that time?

ARBITRATOR, JUSTICE MOSENEKE: Yes.

15**DR MAKGABO JOHANNA MANAMELA:** At that time according to the plan we had, we will have enough beds.

ARBITRATOR, JUSTICE MOSENEKE: Did you have enough beds for the people who were receiving care at Life Esidimeni when you started the placement process?

DR MAKGABO JOHANNA MANAMELA: No, it was a process. You said it so well,
20Justice, we were starting. We didn't have enough beds at that time.

ARBITRATOR, JUSTICE MOSENEKE: No means what, you did not have enough beds?

DR MAKGABO JOHANNA MANAMELA: By that time, but we knew where we were going to have beds before, before the time of final, taking the 20% and taking 5the 200 beds.

ARBITRATOR, JUSTICE MOSENEKE: No, I am talking from the time in May and June, from March, in 2016, did you have enough beds for the people you were going to chuck out of Life Esidimeni?

DR MAKGABO JOHANNA MANAMELA: At that time we didn't have enough 10beds.

ARBITRATOR, JUSTICE MOSENEKE: Why did you do it? Why did you start a project when you have not prepared for it, for the destination of these vulnerable people?

DR MAKGABO JOHANNA MANAMELA: Justice, the process was ongoing. It 15was not a done deal to say today MEC and the Executive these are the beds. The process was ongoing. I alluded the day I was here that we started early January/February after we noticed that the letter was sent to Premier to say we are going to reduce by further 20%, we started. And by that time of July we were still in that process of ...intervened.

20**ARBITRATOR, JUSTICE MOSENEKE:** When they terminated the contract, you were the person who was making the presentations. Did you tell them, we don't have the beds?

DR MAKGABO JOHANNA MANAMELA: I told them that we don't have the beds, but these are the beds for the hospital, if they can renovate it. I think the presentation says it so well. If they can be renovated, we can even have more beds.

5**ARBITRATOR, JUSTICE MOSENEKE:** If you did not renovate all of them, why did you still chuck the people out of Life Esidimeni?

DR MAKGABO JOHANNA MANAMELA: Can I ask the Judge to say we didn't chuck, some words, we didn't chuck anybody out.

ARBITRATOR, JUSTICE MOSENEKE: We all agreed that we are not going to
10hackle, right, we are not going to hackle. Please show respect to the witness.
Okay, why did you place the people out of where they were?

DR MAKGABO JOHANNA MANAMELA: The termination notice was given to Life Esidimeni by the Executive and we were clearly informed that by that time we need to have placed the patients.

15**ARBITRATOR, JUSTICE MOSENEKE:** Did you agree with the termination?

DR MAKGABO JOHANNA MANAMELA: When you look at the ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: No, you hear the question. Did you agree with the termination of the agreement with Life Esidimeni?

DR MAKGABO JOHANNA MANAMELA: Can I answer and qualify that?

20**ARBITRATOR, JUSTICE MOSENEKE:** You can qualify, but answer first please.

DR MAKGABO JOHANNA MANAMELA: The leadership gave instruction. Myself as the director I had to check if that instruction is in accordance with the law that govern the function that I am carrying out.

ARBITRATOR, JUSTICE MOSENEKE: Which leadership gave the instructions?

5**DR MAKGABO JOHANNA MANAMELA:** Gauteng Department of Health Leadership/Executive.

ARBITRATOR, JUSTICE MOSENEKE: Who in the Department? Call them by names.

DR MAKGABO JOHANNA MANAMELA: We've got political head, Me. Mahlangu. 10The HOD, Dr Selebano. The DDG Clinical Doctor Lebete, we also have other Chief Directors.

ARBITRATOR, JUSTICE MOSENEKE: But who gave the instructions? Will you call them by name please?

DR MAKGABO JOHANNA MANAMELA: The letter was signed by the HOD, Dr 15Selebano.

ARBITRATOR, JUSTICE MOSENEKE: And who gave you the instructions to start drawing a placement plan and a transfer plan, who gave you those instructions?

DR MAKGABO JOHANNA MANAMELA: We were called in a meeting. The first meeting we even had Life Esidimeni managers and then my unit, because that is 20where the termination ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Who gave you the instructions, please, by name?

DR MAKGABO JOHANNA MANAMELA: By name?

ARBITRATOR, JUSTICE MOSENEKE: Who gave you the instructions? Which senior of you gave you the instructions that go ahead now with the placement, remove them from Life Esidimeni to where ever else, who gave those instructions?

DR MAKGABO JOHANNA MANAMELA: The MEC and the HOD, because they gave instruction.

ARBITRATOR, JUSTICE MOSENEKE: So you were acting on instructions.

10**DR MAKGABO JOHANNA MANAMELA:** Yes, but like I said, I must qualify. I looked at the Act, I looked at the policy, I looked at the regulation. And if in my capacity as a professional, if I found that those acts and legal document does not allow, I will say no and I will qualify it. Because the Public Service Regulation Act also say if you cannot carry out a delegation because of certain reasons, you must
15make your leadership aware.

ARBITRATOR, JUSTICE MOSENEKE: You are so right. I am so happy Doctor. You are right and you know what the law is there. You have no duty to implement unlawful instructions, isn't it so?

DR MAKGABO JOHANNA MANAMELA: Yes Justice.

20**ARBITRATOR, JUSTICE MOSENEKE:** Your duty is to listen to your superior only on lawful instructions, isn't it so?

DR MAKGABO JOHANNA MANAMELA: Yes Justice.

ARBITRATOR, JUSTICE MOSENEKE: Yes. Counsel.

ADV. NONTLANTLA YINA: Thank you Justice. If I may also quickly take you to page 2680, please, file number 7.

5**DR MAKGABO JOHANNA MANAMELA:** Which file?

ADV. NONTLANTLA YINA: It would seem this was a presentation by Mr. Mosenogi on the 26th of January 2016.

DR MAKGABO JOHANNA MANAMELA: Which file? The very same I have, Justice?

10**ADV. NONTLANTLA YINA:** Yes, file number 7.

DR MAKGABO JOHANNA MANAMELA: Okay, page?

ADV. NONTLANTLA YINA: 2680. Yes that was the presentation that was done by Mr. Mosenogi on the 26th of January 2016, do you agree?

DR MAKGABO JOHANNA MANAMELA: Yes, I agree Counsel.

15**ADV. NONTLANTLA YINA:** Now if you go to page 2681, I will focus on the first table. I will focus on the two last names appearing there. The first one is Mangabongwe severe profound child residence, and they indicated that... Justice, if you'll remember very well, Me. Ethel Ncube testified that the day care centre that she was running Mangabongwe, so this is Precious Angels.

20**ARBITRATOR, JUSTICE MOSENEKE:** Yes.

ADV. NONTLANTLA YINA: She said she had the capacity to take 114, possible expansion 114, total number of beds 114 by 1 April. Now she gave this information on the 26th of January 2016. Can you see that, Dr Manamela?

DR MAKGABO JOHANNA MANAMELA: Yes, I can see it, Counsel.

5**ADV. NONTLANTLA YINA:** And then type of service: Child residence. Now if you just keep your finger there and you go backward to page 2397, I am not going to belabour the point, we spoke much on this license on Monday, but I just want to show you something. So this is the license that you signed for Precious Angels, the same organisation, on the 1st of April 2016.

10**DR MAKGABO JOHANNA MANAMELA:** 239?

ADV. NONTLANTLA YINA: And you gave her permission or you licensed her to take ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: I am sorry, I don't think the witness got to the license. The license is on which page?

15**ADV. NONTLANTLA YINA:** 2397, the same file, Justice, backward.

ARBITRATOR, JUSTICE MOSENEKE: Have you got that?

DR MAKGABO JOHANNA MANAMELA: Yes, I am there.

ADV. NONTLANTLA YINA: The question is: On the 26th of January 2016 she requested to offer services of a child residence to take 114 patients. 2397 she is
20licensed to take 150 patients, males and females. Do you want to comment?

DR MAKGABO JOHANNA MANAMELA: Justice, sorry my ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Well let's start off by saying, is this the license that you issued?

DR MAKGABO JOHANNA MANAMELA: This license issued was not for Mangabongwe. We are talking two different things.

5**ADV. NONTLANTLA YINA:** No, she testified that she was running a day care centre which was known as Mangabongwe.

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. NONTLANTLA YINA: But for the program, for this program, she then submitted documents as Precious Angels.

10**DR MAKGABO JOHANNA MANAMELA:** Yes, correct.

ADV. NONTLANTLA YINA: So when she requested the license it was for Precious Angels, based on the information that she submitted. Mangabongwe and Precious Angels is one and the same organisation. She was requesting a license for Precious Angels for 114 – that's the gist of the question – you granted her 150.

15**DR MAKGABO JOHANNA MANAMELA:** The document that my office received from Tshwane was two sets of documents: The one for the one that was supposed to be at Kalafong and the one for Mangabongwe. So they are two different things, it is not the same.

ADV. NONTLANTLA YINA: Did you inspect Mangabongwe?

DR MAKGABO JOHANNA MANAMELA: No, I didn't inspect Mangabongwe, but Tshwane Mental Health Care Unit did and submit request for licensing for Mangabongwe.

ADV. NONTLANTLA YINA: On Monday we established that the license... Justice, I will leave that one, because we dealt with it at length.

ARBITRATOR, JUSTICE MOSENEKE: Let me ask a few questions about that, Counsel. Did you issue the license for Precious Angels on page 2397? I can see your signature there.

DR MAKGABO JOHANNA MANAMELA: Yes.

10 **ARBITRATOR, JUSTICE MOSENEKE:** You did?

DR MAKGABO JOHANNA MANAMELA: Yes.

ARBITRATOR, JUSTICE MOSENEKE: And you followed the prescripts of the law and the regulations under the Act.

DR MAKGABO JOHANNA MANAMELA: Yes, Justice.

15 **ARBITRATOR, JUSTICE MOSENEKE:** How did you arrive at the number 150?

DR MAKGABO JOHANNA MANAMELA: That is what the district has given us and the area, you have alluded on Monday that she already started something in the renovation at Kalafong. The area was counted by the district that it will accommodate 150 patients – that is what this license was saying.

ARBITRATOR, JUSTICE MOSENEKE: And did you again consider these people to be children with profound intellectual disability, is that why you issued the license to her?

DR MAKGABO JOHANNA MANAMELA: Yes, as it is, yes.

5**ARBITRATOR, JUSTICE MOSENEKE:** Because she was running a child day care centre.

DR MAKGABO JOHANNA MANAMELA: Yes.

ARBITRATOR, JUSTICE MOSENEKE: Why did you issue her this license?

DR MAKGABO JOHANNA MANAMELA: On the reason that I just explained that
10when we talk about intellectual disability, those patients, even if he is 40 years, they are still having the mind – I am sorry to say that, they are also people, but their mind capacity or cognitive is still like that ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: She said she never looked after people, adults, with that kind of impairment – that was her evidence. And she says she
15never occupied premises appearing on this license. And she said she had no 150 beds.

DR MAKGABO JOHANNA MANAMELA: Yes Justice.

ARBITRATOR, JUSTICE MOSENEKE: How did you or your team supply you with this information to issue a license?

20**DR MAKGABO JOHANNA MANAMELA:** When the team has recommended that they have got 150 beds and I confirmed with my team in the office, I had no reason

to refuse that, because the project was still also going on. But the fact that she didn't manage to... she has never managed the people who are adults, because she managed the ones who a child is, it is another thing. But when this was submitted to my office, it was like she was going to have 150 at Kalafong, but she never got 150, but that was licensed for her for that financial year.

ARBITRATOR, JUSTICE MOSENEKE: Why did you issue a license for males and females at the same premises and place?

DR MAKGABO JOHANNA MANAMELA: We do have males and females at the same premises.

10 **ARBITRATOR, JUSTICE MOSENEKE:** Have you checked to see whether the females will be save when issued with males in this, at Me. Ncube's premises?

DR MAKGABO JOHANNA MANAMELA: The team, if they go for the license, they check. If a person or a manager said I will have males only, it is her decision. If she is going to have males and females, we say let's see where the females will be, 15 let's see where the males will be. And I believe that is what Tshwane did and then we also agreed, same like in ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Let's look at the consequences of this due diligence that you say you have done. How many people died at Precious Angels, after you issued the license and permitted her, Me. Ncube, to take this number of 20 men and women, how many people died that after? Because that is what this enquiry is about.

DR MAKGABO JOHANNA MANAMELA: Yes. Yes, Justice, how many people died there? By the time ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: After you issued the license and authorised her to take on patients with mental disability, intellectual disability.

5**DR MAKGABO JOHANNA MANAMELA:** Yes, I might not arrive to the right number, but I will give you the number that I knew before I left the office, because this is accumulative. By the time I submitted to MEC for the Legislature, I think there were 18 patients who died and I know other patients died after that.

ARBITRATOR, JUSTICE MOSENEKE: Okay let's tell you what the Ombud tells
10us. Go to ...intervened.

ADV. NONTLANTLA YINA: ELAH57, Justice.

ARBITRATOR, JUSTICE MOSENEKE: ELAH57. Then you can see the consequences of your licensing.

ADV. NONTLANTLA YINA: Page 8. Precious Angels appears, it is the fourth one
15from the bottom and if you add up those numbers you get 20, 20 patients died at Precious Angels. Seven died in July, eight died in August, two died in September, one in October, one in December and one in January 2017. So 19 died in 2016. Do you agree with the findings of the Ombud?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel, but the Justice asked a
20question. Before I answered it you came with another question. I have answered yours. Can I ask Justice's question?

ARBITRATOR, JUSTICE MOSENEKE: Do you want me to repeat my question?

DR MAKGABO JOHANNA MANAMELA: If you wish so.

ARBITRATOR, JUSTICE MOSENEKE: You issued the license to Me. Ncube who told us that she had no skill in looking after people of this category and when she got the license, she had no beds for them and she never occupied the premises reflecting on the license. And thereafter she received patients and they died in her hands. You told me just now that it was all perfect, your team went out and checked and it was all ready to go and that is why you issued the license. So I say, what do you have to say about the consequences of you permitting her to look after 10 people who are so vulnerable and now they have died – that is the question. What is your response to that?

DR MAKGABO JOHANNA MANAMELA: Justice, the consequences of what happened will also need to be clarified. In the first place I don't know the post mortem results. What I know is that people died, it was heart breaking for me and 15 another thing I know is that when my team assessed the place, they came back and said the place is suitable. And when we went in other area, we found that there were some loopholes and finally she told the team that she is going to move to Linwood. As for that, I don't know what I can say from what she told you, because she told you what she think and what she told you is not what she told us and it is 20 not what the team that went, wrote and submitted to me and said can you give license to this person.

ARBITRATOR, JUSTICE MOSENEKE: So did your team lie to you?

DR MAKGABO JOHANNA MANAMELA: I don't know, Justice.

ARBITRATOR, JUSTICE MOSENEKE: Did you have a duty to check in law, to make sure the facts are correct?

DR MAKGABO JOHANNA MANAMELA: I only went to Precious Angels after we were placed, because my role was a strategic role. There were people who were placing patients, there were people who were identifying the NGOs. I didn't go to each and every NGO.

ARBITRATOR, JUSTICE MOSENEKE: Dr Manamela, if you did not authorise Me. Ncube to receive patients from Life Esidimeni, would she have been able to do so, authorised to do so?

DR MAKGABO JOHANNA MANAMELA: If she didn't have license, she couldn't do that.

ARBITRATOR, JUSTICE MOSENEKE: And that she could get only from you.

DR MAKGABO JOHANNA MANAMELA: She can get only from me through the district.

ARBITRATOR, JUSTICE MOSENEKE: And the consequences of you issuing that license, we know now. They are disastrous, people died. What is your response to that?

DR MAKGABO JOHANNA MANAMELA: Yes.

ARBITRATOR, JUSTICE MOSENEKE: You are the authority that is required to protect life by regulating who you issue license to, checking the facilities, making sure that they are appropriate and fit for purpose. Did you do that here?

DR MAKGABO JOHANNA MANAMELA: That is what my team did and my document that I had said that. At my level I cannot go to each and every NGO. But if I query the NGO I can go, if I have time to go. But I said to you on Monday that there was a person in charge of all the NGOs that even if I am not there, all the NGOs in the province, she is in charge. So if the district is saying these are the beds, how do I say these are not the beds, if I don't have report that says these are not the beds?

ARBITRATOR, JUSTICE MOSENEKE: And why do you give Me. Ncube all these men and women who are so vulnerable and you don't give her any money? She told us so. For four months she didn't get a penny from your operations. How did that happen?

DR MAKGABO JOHANNA MANAMELA: I think the project team at finance people... So some of the things... I am the director for mental health services. My first priority is to ensure the quality of services, however the finance, I need to check if they do, but I am not the one who is giving the money.

ARBITRATOR, JUSTICE MOSENEKE: We have evidence that you ordered people to go and take patients from Life Esidimeni and you took them to another place with no resources. And for four months Me. Ncube doesn't get a penny from your department. Why didn't you make sure so that these people don't die?

DR MAKGABO JOHANNA MANAMELA: That is what we were trying to do, Justice.

ARBITRATOR, JUSTICE MOSENEKE: Why didn't you make sure? Why didn't you do it?

5**DR MAKGABO JOHANNA MANAMELA:** We were busy trying to make sure, we were busy trying to make sure. I told you what we did for the first time... let me go back, allow me Justice. When I realised that the first month has gone and the people are not paid, we called the NGOs ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: No, but I am not asking that question, 10ma'am, sorry to interrupt you.

DR MAKGABO JOHANNA MANAMELA: Ja, but ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Before you moved the people, before you gave instructions. On the evidence you gave instructions for people to be moved. Why did you not make sure your finance department is ready to fund the NGOs?

15**DR MAKGABO JOHANNA MANAMELA:** Justice, the information that I gave instruction is incorrect. The termination letter is the one that gave instruction. It cannot be me who gave instruction, that is incorrect.

ARBITRATOR, JUSTICE MOSENEKE: Okay tell me why did you move the people, I am not talking about termination, move, instruct that patients be moved, when the 20NGOs had no resources and your department did not pay them?

DR MAKGABO JOHANNA MANAMELA: At the time of movement the team went and assessed the place and they found that there were resources and the resources depleted as time goes on.

ARBITRATOR, JUSTICE MOSENEKE: Resources from where?

5**DR MAKGABO JOHANNA MANAMELA:** From the NGOs, from everywhere where we placed the patients. We also placed the patients in Cullinan Hospital.

ARBITRATOR, JUSTICE MOSENEKE: Did you expect Me. Ncube to use her money to look after mental health care users?

DR MAKGABO JOHANNA MANAMELA: It is not my expectation to do that, but 10the NGO, they don't get full payment like Life Esidimeni was, they are being subsidised. So I was expecting that the Department will subsidise Me. Ncube even before ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Why didn't you make sure that it happens before you say busses must go to Life Esidimeni to move patients? Why didn't you 15make sure?

DR MAKGABO JOHANNA MANAMELA: As the project team we will go to the meeting every two weeks and is presented, the people who move the patients, they were also in the meeting, the emergency services, Justice. They knew of the plan to move the patients. The people who had to pay, they were also part of the project 20team, they know about that. However, as the Provincial Director for Mental Health, I followed them up to say how far are we with the payment and to the level of phoning and checking to the people who are outside our department. So what I could do

within my reach, I have done. And secondly when we realised that, we organised one company to provide them with clothing, we organised one company to provide them with meals and then we also asked, there is a letter written to the district and all hospitals to say where the NGO will need support, please support them. So I could do what is within my directorate, Justice. I can't do what is outside my directorate.

ARBITRATOR, JUSTICE MOSENEKE: You could have told them not to move any patients until there was food where they were going to end up. It was in your power to say not today until finance pays the... You know yesterday only, Doctor, we had evidence of a lady near the Vaal who was scrounging around at hotels for leftovers of food to give to patients, only yesterday in evidence, because she was not receiving stipend. Why would you... you will hear it, other Counsel will put it to you that in Cullinan, in Siyabadinga donations, going to communities, asking for food... why did you not make sure that those basic things are there before you send out busses and bakkies to pick up people and move them around? I haven't heard your answer.

DR MAKGABO JOHANNA MANAMELA: I said we wrote a letter to ask if the NGOs can be paid upfront and it was not successful. Secondly, during the termination no patient was taken away with the bakkie, because I had teams from Life Esidimeni facilities until the last patient was out of Life Esidimeni.

ARBITRATOR, JUSTICE MOSENEKE: Adv. Yina.

ADV. NONTLANTLA YINA: Thank you Justice. Just one last point on this one, 2681, on the same page, the last NGO appearing on the first table, it will be Anchor House and the type of services, they offered to render child residential facility and they said they had the capacity to take 223 number of beds. And now if you go to... 52681. Now this information was given to your team in January 2016. And then in April, the certificate, the license appears on 2385. 2385 that is the license and the information is on 2681. Then on the first day of April you issued the NGO with a license to take 150 and you specify that it is a child residential care facility. Are you on the certificate, Doctor?

10 **DR MAKGABO JOHANNA MANAMELA:** I have got 2685.

ADV. NONTLANTLA YINA: 2681.

DR MAKGABO JOHANNA MANAMELA: 2681. Okay I found it.

ADV. NONTLANTLA YINA: Yes, so 2681 the information that she gave was that she would like to... the services that she could offer would be child residential facility for 223 people in January 2016. And then on the first day of April 2016 you issued her with a license indeed for a child residential care facility for 150 people in Kalafong.

DR MAKGABO JOHANNA MANAMELA: Sorry, Justice, which page is that one?

ADV. NONTLANTLA YINA: 2385, the same file.

20 **DR MAKGABO JOHANNA MANAMELA:** 2385.

ARBITRATOR, JUSTICE MOSENEKE: Just the license you've issued.

ADV. NONTLANTLA YINA: 2385.

DR MAKGABO JOHANNA MANAMELA: I am almost there. Okay I found it.

ADV. NONTLANTLA YINA: Yes, so you issued her a license to operate from Kalafong Heights, to run a child residential care facility of 150. Yes.

5**DR MAKGABO JOHANNA MANAMELA:** That is correct.

ADV. NONTLANTLA YINA: Yes, now her evidence is that she actually received adults, males and females, not children, and she was operating from Cullinan Care and Rehabilitation Centre.

DR MAKGABO JOHANNA MANAMELA: That is correct.

10**ADV. NONTLANTLA YINA:** And you said your understanding is that people who are mentally ill can be classified as children.

DR MAKGABO JOHANNA MANAMELA: Correct.

ADV. NONTLANTLA YINA: But you can see that her license is different from the license that I showed you for Precious Angels, because Precious Angels simply
15says males and females and this one says child residential care facility.

DR MAKGABO JOHANNA MANAMELA: Yes. Like when you speak about child residential, it also include female and male child residential in terms of mental disability and depending... there are other variables that you need to look at. Depending on what type of child that are disabled, can they move, can they walk –
20so those are the areas that are being taken into consideration when a child, when she is licensed for a child, then you need to look at what child. And according to

condition, it is not just like any child that you will just take from the street, according to condition and severity of the condition.

ADV. NONTLANTLA YINA: You know the evidence of Me. Ncube and also the CEO of Anchor House was that patients were imposed on them.

5**DR MAKGABO JOHANNA MANAMELA:** That was untrue.

ADV. NONTLANTLA YINA: Do you wish to comment on that?

DR MAKGABO JOHANNA MANAMELA: That is untrue. Nobody imposed patients on them. They were even not so happy when Kalafong cannot open. I have got pictures for Kalafong, you can see the outside one.

10**ADV. NONTLANTLA YINA:** Even the social worker from Cullinan Care and Rehabilitation Centre also gave the same evidence that patients were imposed on them, in actual fact they said by you as a person.

DR MAKGABO JOHANNA MANAMELA: Imposed on Anchor and Precious Angels by me?

15**ADV. NONTLANTLA YINA:** Anchor, CCRC, Siyabadinga and Precious Angels.

DR MAKGABO JOHANNA MANAMELA: That is pure lies. I told you I don't know anything about the occupation of Siyabadinga, I knew later. There was a plan. We renovated 100 beds for Cullinan. And I also explained, I hope I explained about Anchor, unless it was on my reports. But the Siyabadinga issue, I don't know
20anything about that. The 100 beds that were renovated in the hospital, I know about them. The Anchor as well I know, because my team, my NGO monitoring

team at the final stage, they are the one who reported about the vacant beds at Cullinan.

ADV. NONTLANTLA YINA: So your answer is that you did not impose patients on NGO.

5**DR MAKGABO JOHANNA MANAMELA:** No, I do not.

ADV. NONTLANTLA YINA: Funny enough that you should say that you don't know anything about Siyabadinga, because the evidence before this court was that Siyabadinga initially occupied four wards at Cullinan Care and Rehabilitation Centre. Do you know anything about that?

10**DR MAKGABO JOHANNA MANAMELA:** When I said to you I don't know anything about imposing patients to Siyabadinga, you asked me about ...intervened.

ADV. NONTLANTLA YINA: Do you know if they occupied four wards?

DR MAKGABO JOHANNA MANAMELA: I know that they occupied three wards.

ADV. NONTLANTLA YINA: And then her evidence was that you went there and
15you pushed, you personally pushed beds with patients from one ward to the two wards and you mixed males and females in the process, to open space for Anchor House.

DR MAKGABO JOHANNA MANAMELA: We never mixed the patients for that, for
20Siyabadinga. Because if you want me to take you through what happened with
Siyabadinga, because I don't want you to interject ...intervened.

ADV. NONTLANTLA YINA: No, the question is, did you mix patients, did you push beds to make space for Anchor House?

DR MAKGABO JOHANNA MANAMELA: No, I didn't push beds, but I advised the team that is there to move the patients while I was still there. why I did that was because the CEO of Siyabadinga, Me. Noelle, was not answering the phone, but immediately, because we wanted to discuss that with her to say there is one ward you use as laundry and there were napkins, all that was there, and there was one ward that was vacant, so can we say that the other ward that has got 17 patients and some patients when on LOA. When a patient becomes better, they start to go home on LOA. So when I called her, she didn't answer the phone. I wanted to discuss that with her. Then I asked that what can we do with the team that was there. Then we said okay let's see how we can put the patients. And the team that was there, they did put the patients and I was there, I checked the patients thereafter, I also ...intervened.

ADV. NONTLANTLA YINA: If I may interject. So you are saying in a nutshell that the CEO of Siyabadinga and Anchor House and the social worker from CCRC are not telling the truth when they are saying that the patients were actually in one ward, females and males – they are not telling the truth?

DR MAKGABO JOHANNA MANAMELA: No, now you are giving me something else. I was answering, they were not telling the truth when they said I imposed patients on them, then you touch on Siyabadinga and I explained Siyabadinga. They were not telling the truth that I imposed the patients on them – that is not true.

ADV. NONTLANTLA YINA: Okay.

ARBITRATOR, JUSTICE MOSENEKE: Well before you walk away from this license, Counsel. Page 2385, we know you issued that license.

DR MAKGABO JOHANNA MANAMELA: That is correct, Justice.

5**ARBITRATOR, JUSTICE MOSENEKE:** For 150 mental health care users.

DR MAKGABO JOHANNA MANAMELA: That is correct, Justice.

ARBITRATOR, JUSTICE MOSENEKE: Severe profound intellectual disability is the scope of the license and you say you issued it because you considered the patients to be like children.

10**DR MAKGABO JOHANNA MANAMELA:** That is how it is, Justice.

ARBITRATOR, JUSTICE MOSENEKE: And the license was to Anchor House. The CEO of Anchor House came here and said she was never housed at Kalafong Heights.

DR MAKGABO JOHANNA MANAMELA: That is correct, Justice.

15**ARBITRATOR, JUSTICE MOSENEKE:** Why did you issue a license to a premise that did not exist?

DR MAKGABO JOHANNA MANAMELA: Like I said yesterday that it appears that people were, as they were working on that, for them to be even, be able to be paid, I think the error that the NGO manager was not to remove the word Kalafong. If you
20go and check the SLA it is written and signed for Cullinan Care and Rehab, it was just an error.

ARBITRATOR, JUSTICE MOSENEKE: No, (vernac).

DR MAKGABO JOHANNA MANAMELA: No (vernac).

ARBITRATOR, JUSTICE MOSENEKE: (Vernac). Why did you issue a license for a premise that does not exist?

5**DR MAKGABO JOHANNA MANAMELA:** Like I said the license ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Or was not occupied or used.

DR MAKGABO JOHANNA MANAMELA: Okay, the license was prepared to my office and I look at what has happened. Like I am saying to you, it was an error. Because although we gave them the license, these people at Cullinan, Anchor, 10didn't occupy Cullinan during April.

ARBITRATOR, JUSTICE MOSENEKE: I am saying, do you understand your responsibility under the law?

DR MAKGABO JOHANNA MANAMELA: I understand it well.

ARBITRATOR, JUSTICE MOSENEKE: You are given permission for somebody to 15take into their custody mentally, severely mentally, with severe mental intellectual disability. You are giving them the authority by law to look after them against payment and the law has specified how you do it when you issue a license. Why would you do it so haphazardly? Why wouldn't you make sure that the facts are suitable for patients? That is my question.

20**DR MAKGABO JOHANNA MANAMELA:** Like I said, Justice, I think that issue of Kalafong was just an overlook. I must admit, it was an overlook. Because the other

areas that were required, we had the place which was done and assessed by ourselves and the clinician. We had their numbers of staff. I think it was an overlook to still have it as Kalafong.

ARBITRATOR, JUSTICE MOSENEKE: An overlook?

5**DR MAKGABO JOHANNA MANAMELA:** Yes.

ARBITRATOR, JUSTICE MOSENEKE: But you are talking of lives of people with severe intellectual impairment and what was the consequence, do you remember, of this defective license? Anchor went where? To Cullinan, right?

DR MAKGABO JOHANNA MANAMELA: That is correct, Justice.

10**ARBITRATOR, JUSTICE MOSENEKE:** And whose instruction? We have that all in evidence. I just wanted to confirm it. You instructed the CEO to take some patients out of Cullinan to make way for the patients that you ordered should come there.

DR MAKGABO JOHANNA MANAMELA: Myself, Justice, ordered the CEO,
15myself instructed?

ARBITRATOR, JUSTICE MOSENEKE: That is the evidence before me.

DR MAKGABO JOHANNA MANAMELA: Yes, it doesn't mean the evidence before you is correct evidence. If it is correct evidence, why am I here?

ARBITRATOR, JUSTICE MOSENEKE: Okay, you tell us how did it happen.

20**DR MAKGABO JOHANNA MANAMELA:** Yes like ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: You issued a license to somebody called Anchor, with no premises, that is discovered, you say it was a human error... and then what happened?

DR MAKGABO JOHANNA MANAMELA: Okay, what happened, Justice, was that when we renovated Cullinan Care Centre it was planned that the patients, there were a lot of patients in Cullinan Care Centre who didn't have families and who families may not be able to take care of. So when we renovated that, the issue was that those who Cullinan knew that they need to be at home or at the NGOs... Because when you talk about patients with intellectual disability ...intervened.

10**ARBITRATOR, JUSTICE MOSENEKE:** No, I don't want explanations. I am saying what happened and you can tell me why it happened.

DR MAKGABO JOHANNA MANAMELA: Okay, I am giving you what happened.

ARBITRATOR, JUSTICE MOSENEKE: Let's not mix the two. What happened and why, may be the second thing.

15**DR MAKGABO JOHANNA MANAMELA:** Okay what happened ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Please tell me.

DR MAKGABO JOHANNA MANAMELA: We renovated the wards.

ARBITRATOR, JUSTICE MOSENEKE: Yes.

DR MAKGABO JOHANNA MANAMELA: When the ward was evaluated and signed off as a legible ward, the CEO took the patients from Cullinan to Siyabadinga.

ARBITRATOR, JUSTICE MOSENEKE: On whose instructions? The CEO just got this bright idea?

DR MAKGABO JOHANNA MANAMELA: No, it is not my instruction, it is not my instruction, because we know one of the NGOs that was supposed to occupy, where Siyabadinga was, was Life Disciples. So she did on herself and put, placed the patient there in good hope to say those who are coming from Life Esidimeni who cannot go into the NGO will be in the Cullinan – that is the why.

ARBITRATOR, JUSTICE MOSENEKE: So the CEO made the decision not on your instruction.

10**DR MAKGABO JOHANNA MANAMELA:** No, not on my instruction.

ARBITRATOR, JUSTICE MOSENEKE: And you go there and you help, and you inspect the place. We are told you even pushed beds around yourself. They were here, they testified, people from Cullinan.

DR MAKGABO JOHANNA MANAMELA: I hear what you are saying, Justice. 15Everyone will have to protect their skin. The 100 beds was renovated by Department not by myself – that is number 1. The placement ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: But who said that patients of Anchor may go to Cullinan?

DR MAKGABO JOHANNA MANAMELA: On Anchor may go to Cullinan?

20**ARBITRATOR, JUSTICE MOSENEKE:** Yes. We know there is no premises.

DR MAKGABO JOHANNA MANAMELA: Ja, the Anchor, let me come, we were clear with the Siyabadinga.

ARBITRATOR, JUSTICE MOSENEKE: That was my question from the beginning.

DR MAKGABO JOHANNA MANAMELA: No at the beginning you said 5Siyabadinga, Justice. I was answering the Siyabadinga.

ARBITRATOR, JUSTICE MOSENEKE: Anchor and we are talking about the license ...intervened.

DR MAKGABO JOHANNA MANAMELA: Now we come to Anchor.

ARBITRATOR, JUSTICE MOSENEKE: We are talking about the license and 10Anchor, there is a license you signed with no premises.

DR MAKGABO JOHANNA MANAMELA: Okay let me explain the Anchor. When we were busy with the placing the tam, the NGO team, were also going to see the patients where they are placed. They found that they can be the two wards, in the renovated ward of Cullinan that can accommodate some patient. They went and 15spoke to the CEO of Siyabadinga and she said she cannot accommodate any more patients. And they phoned me, they asked me that because she cannot accommodate any more patient and the resources whatever she had was only that, can we get one of the four NGOs who are willing to occupy Cullinan. I said if the CEO said that, it is... I don't have a problem. I took my time and called the CEO of 20Siyabadinga to find out, actually the Cullinan one, where are the people whom we agreed they will take 100 patients and she said they are no longer there, it is another NGO. And I was surprised... another NGO... what NGO? She started to

say I will tell you, I will tell you. And I said to her okay, I learned that the other NGO that you say is there, which we don't know, but we need the other beds that they cannot use, can I have the number for the CEO of the person, she gave it to me. I called the lady. At times I couldn't get hold of her, until I got hold of her. And I asked myself after I was told that they think of another NGO, can we bring other patients to make the total of 100 and she said no.

ARBITRATOR, JUSTICE MOSENEKE: How did patients under your care end up with a NGO you know nothing about?

DR MAKGABO JOHANNA MANAMELA: Yes.

10**ARBITRATOR, JUSTICE MOSENEKE:** How did that happen?

DR MAKGABO JOHANNA MANAMELA: It happened from the CEO of Cullinan. I think you can ask the CEO of Cullinan that, because I know of the NGO called Life Disciple. Justice, we know that things do happen at times, but it happened. I didn't know. And for the first time – let me just pause there. I didn't know about
15Siyabadinga.

ARBITRATOR, JUSTICE MOSENEKE: And what about the poor patients?

DR MAKGABO JOHANNA MANAMELA: Ja that was my concern and that is why I took initiative to call the CEO of Siyabadinga.

ARBITRATOR, JUSTICE MOSENEKE: And who would have got the patients there
20from Life Esidimeni? On whose instructions?

DR MAKGABO JOHANNA MANAMELA: The whole premises on the termination terms was going to be accommodating patients from Cullinan Care, those 100 beds.

ARBITRATOR, JUSTICE MOSENEKE: Who ordered that the patients at Cullinan be discharged?

5**DR MAKGABO JOHANNA MANAMELA:** The patients at Cullinan I discharged within the hospital. It was not me, I am not working in the hospital. The CEO and the multi-disciplinary team identified which patient are supposed to be discharged to the renovated bed. I didn't ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: You know nothing about that.

10**DR MAKGABO JOHANNA MANAMELA:** No, because I was at strategic level.

ARBITRATOR, JUSTICE MOSENEKE: And you had no hand in it, you didn't give any instructions.

DR MAKGABO JOHANNA MANAMELA: No, I didn't give instruction. What I know is that Life Disciples will be the NGO that will occupy the place, because we took
15them through the process of managing NGO.

ARBITRATOR, JUSTICE MOSENEKE: And the executive management of CCRC are clearly untruthful when they say you gave them the instructions.

DR MAKGABO JOHANNA MANAMELA: To take patients from them to Siyabadinga.

20**ARBITRATOR, JUSTICE MOSENEKE:** From Life Esidimeni to Cullinan and that Cullinan must discharge patients to make room for patients that were to be placed.

DR MAKGABO JOHANNA MANAMELA: No, that report the CEO told me that she will do it that way and there was nothing wrong, because her multi-disciplinary team identified those patients that the family cannot take care of and those who does not have families.

5**ARBITRATOR, JUSTICE MOSENEKE:** Nothing wrong. How many people ...intervened.

DR MAKGABO JOHANNA MANAMELA: When she said that, there was nothing wrong provided the NGO that is going to manage that place will be taken through the process. And she started, she came with them in our first meeting. So I am not
10the one ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: How many people died after all what you said there was nothing wrong at Siyabadinga?

DR MAKGABO JOHANNA MANAMELA: Chief Justice, I didn't say there was nothing wrong. I said Siyabadinga was not assessed, but the premises was eligible
15because it was assessed, even the clinician assessed that.

ARBITRATOR, JUSTICE MOSENEKE: How many people died at Siyabadinga?

DR MAKGABO JOHANNA MANAMELA: The last time I know when I was still at the Department, I think nine patients died at Siyabadinga, but the report has been going on, I cannot give the exact number. But let me tell you this, Justice, the first
20time that the CEO really told me the truth about Siyabadinga, I didn't know about... she didn't, she was going up and... you know, let me not do that. But one patient died and she reported, and I said CEO you are reporting me that there is one

patient who died in Siyabadinga. Where are those people that you brought to the meeting of NGO and she said there is someone else. Then what I did, we started to check Siyabadinga, where is it coming from, was it a NGO. The team went and found out. And I wrote a letter to Me. Masondo to say can I get the board to go and investigate the death in Siyabadinga. So I didn't fold my hands, Justice, and say let the patient... the patients should just die, I didn't. It was painful for me as well.

ADV. NONTLANTLA YINA: Thank you Justice. Ma'am, just to follow-up on the licenses. On Monday you said that... or rather let me ask it differently. So the NGOs that received patients from Life Esidimeni, you made sure that they were all licensed, am I correct?

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. NONTLANTLA YINA: There was no NGO other than Siyabadinga, you said so on Monday, that received patients from Life Esidimeni which was not licensed.

DR MAKGABO JOHANNA MANAMELA: According to my knowledge, Counsel, it was like that.

ADV. NONTLANTLA YINA: Yes, if you could please open file number 7, page 2478. I will just take you through some of the assessments or inspections which were conducted by your Department but post placement. 2478. Yes, so this is in respect of Shama House. Do you remember the NGO by the name of Shama House?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel.

ADV. NONTLANTLA YINA: Yes. The date of the inspection appears at the bottom as 21 July 2016. Can you see that?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel.

ADV. NONTLANTLA YINA: It would appear that they were operating from Plot 45 5in (inaudible), do you see that? So if you page over to page 2479. My apologies... ja, 2479. On the notes that are written by a pen, manuscript, it says not receiving subsidy at this stage. Do you see that?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel.

ADV. NONTLANTLA YINA: Yes. And then if you go to page 2480 right on top it 10says no license and not receiving subsidies.

ARBITRATOR, JUSTICE MOSENEKE: Have you found that?

DR MAKGABO JOHANNA MANAMELA: Yes, I found it, Justice.

ADV. NONTLANTLA YINA: 2480.

DR MAKGABO JOHANNA MANAMELA: Yes.

15**ADV. NONTLANTLA YINA:** Now this information was recorded by your team who did the inspection post the placement. So they are saying that Shama House did not have a license. Do you wish to comment?

DR MAKGABO JOHANNA MANAMELA: My comment will be, Shama House, if it didn't have the license, I think the best people to comment will be the district 20because we signed all the licenses from the head office and gave it to the district to issue it – that is number 1. Number 2, Shama already had patients that they are not

receiving subsidy and those were not even patients that we licensed as we were busy with the project.

ADV. NONTLANTLA YINA: Yes. Also we checked on the licenses that we received from the Department, all the copies of the licenses that we received from the Department. We could not find any for Shama House, coincidentally.

DR MAKGABO JOHANNA MANAMELA: That I don't know, but what I know is that it was presented to me. We went even during NGO Marathon, some of the family I think they were there, we looked at that and the team that we were dealing with that need to give you the license, because I was not part of compiling this document, but there was a license that was issued, I remember very well. Because they started on themselves. When we were trying to find the bed, we found that they are not licensed but they were receiving the patient and we said we must correct that.

ADV. NONTLANTLA YINA: Let me ask this question before I continue. The assessments, earlier on, on Monday you said there were assessments that were conducted before the licenses were issued, am I correct?

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. NONTLANTLA YINA: And then I referred you to some assessments which were done in July and you said those are post placement assessments. So this assessment, this is one of the post placement assessment. Would they be given to you? Would they be submitted to you or to any of the department seniors?

DR MAKGABO JOHANNA MANAMELA: At that time, I don't know the system now, at that time any license will be issued from mental health directorates.

ADV. NONTLANTLA YINA: I mean the assessments.

DR MAKGABO JOHANNA MANAMELA: Yes, the assessment, they will be given, especially if it is new, they will be given to my office and the NGO ...intervened.

ADV. NONTLANTLA YINA: So that you can check if there is compliance.

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. NONTLANTLA YINA: And if there is no compliance, you could assist and rectify.

10**DR MAKGABO JOHANNA MANAMELA:** That is why I know of Shama that they had around 50 patients, receiving them with no license. They were only given license during the process and we went... it is one of the NGOs that I managed to go with the psychiatrist, if I am not mistaken, and the family committee members.

ADV. NONTLANTLA YINA: If you look towards the bottom at the second last
15table, it says that they had 50 plus 60 patients. And then there is a note that says 50 patients from Life Esidimeni.

DR MAKGABO JOHANNA MANAMELA: Correct.

ADV. NONTLANTLA YINA: You see that, okay. Then if you ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: How would the patients get there? How
20would they get to Shama House?

DR MAKGABO JOHANNA MANAMELA: They were transported to Shama House like other patients, these 50 patients ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: On whose authority?

DR MAKGABO JOHANNA MANAMELA: On the authority that was made during the termination.

ARBITRATOR, JUSTICE MOSENEKE: No. They had no license and they get to a place where they were supposed to be looked after. Who would have made that possible?

DR MAKGABO JOHANNA MANAMELA: Okay, Justice, I think now you refer for the ones that we found there with no license.

ARBITRATOR, JUSTICE MOSENEKE: From Esidimeni.

DR MAKGABO JOHANNA MANAMELA: From Esidimeni they were not placed there without license. Even when we had to place Esidimeni patient, we had now to ensure that every patient that is there is amongst the ones that is licensed and we made their license to 110, but before that ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Just listen to Counsel and the question. Just listen to the question put to you. A report by your team... would you try again, Counsel? The number of people who were there and the part from Life Esidimeni.

ADV. NONTLANTLA YINA: Thank you Justice. The report, we have already established that the report was by your team and then it would be submitted to your department. The report says that Shama House did not have a license. They had

50 plus 60 patients, so they had 110 patients. Of the 110, 50 came from Life Esidimeni.

ARBITRATOR, JUSTICE MOSENEKE: Let's pause right there. Will you explain that?

5**DR MAKGABO JOHANNA MANAMELA:** That is what I was explaining that before... this is post evaluation. We signed, from my office the license was issued and given to the district. It means maybe when these people went there, the district didn't show, I don't know, didn't issue the license to Shama, I don't know. But what I know is that the license was signed, was already given to the district because
10some of the NGOs are known by the district. We know them when we read on paper, but they know the NGOs.

ADV. NONTLANTLA YINA: Earlier on you said there is only one institution that was not issued a license and it was Siyabadinga.

DR MAKGABO JOHANNA MANAMELA: Correct.

15**ADV. NONTLANTLA YINA:** Now it is clear that Shama House did not have a license. This information comes from your own department who conducted the assessment immediately after placement. I will move on ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: I think you must tell me how the patients got there.

20**DR MAKGABO JOHANNA MANAMELA:** Can I ask ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: My focus is on patients.

DR MAKGABO JOHANNA MANAMELA: Yes, my focus is also.

ARBITRATOR, JUSTICE MOSENEKE: How did the patients get there? Who instructed that somebody must fetch them from Life Esidimeni and take them to Shama House, which is unlicensed and not fit for purpose... how did that happen?

5**DR MAKGABO JOHANNA MANAMELA:** Can I also ask that, you are saying it is from my office and I don't see the signature here. But the truth is that, if they go there, they don't find the license, they can't write there is a license. But I know, why I know about Shama, because it was reported that Shama was operating with 60 patients without license, it was not known, it was like any other NGOs that are 10operating, even with Siyabadinga where they were before they come to Cullinan. So, but when we went, when it was reported, we had to give the license for the whole patients, because we found that they are mentally ill patients. That is why I know about Shama.

ARBITRATOR, JUSTICE MOSENEKE: Now how did the patients from Life 15Esidimeni end up at Shama House?

DR MAKGABO JOHANNA MANAMELA: The patients ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Who transported them there on whose instruction?

DR MAKGABO JOHANNA MANAMELA: On the instruction that was made on the 20termination letter that the patients must be out of Life Esidimeni by the 30th of June. And the project team identified the NGOs. We cannot assign this project to one person to say so and so did that, so and so gave instruction, because it was a

project. When we went there, like I said, I repeat it, even the family member, I believe that we went to Cullinan and then we moved to ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: I am going to try again. How did patients from Life Esidimeni end up at Shama House? Let's focus on the patients.

5**DR MAKGABO JOHANNA MANAMELA:** Patients were transported.

ARBITRATOR, JUSTICE MOSENEKE: Exposure that they would have had to confront. How did they get there, on whose instructions?

DR MAKGABO JOHANNA MANAMELA: I said it, Justice. I said the instruction was because of the termination. It was a project issue managed by project team
10and by that time the people who were placing, they knew exactly how many patients will go to Shama, how many patients will go to Cullinan and how many patients will go where, according to the bed that was given by the district.

ARBITRATOR, JUSTICE MOSENEKE: And you had nothing to do with that decision to get patients to Shama House?

15**DR MAKGABO JOHANNA MANAMELA:** I was not transporting the patients, but I was part of the project team, so I have to check. That is why I checked Shama and when it was reported to me that they have got 60 patients not licensed ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Now you as head of mental health care, how would you allow the project team to send patients with mental disability to
20Shama House, which you had not issued with a license.

DR MAKGABO JOHANNA MANAMELA: No, correction was that I issued a license. The district submitted the document and I issued the license. As to where the license was at that time, I don't know. And because it was one of the part of termination, I couldn't say don't take patients to Shama, if the report was saying
5Shama is given license. Maybe Tshwane district can tell us what was the license at that time.

ARBITRATOR, JUSTICE MOSENEKE: Go ahead, Counsel.

ADV. NONTLANTLA YINA: Thank you Justice. If you go to page 2478, you said you didn't see the signatures, people who inspected the premises are listed there as
10R. Gordon and Mr. Mogale from Infrastructure.

DR MAKGABO JOHANNA MANAMELA: 24?

ADV. NONTLANTLA YINA: The first page, 2478. Can you see their names at the bottom?

DR MAKGABO JOHANNA MANAMELA: (Inaudible) assessment. I think as we
15see, if we read this report and understand what I am trying to say to you, the same Tshwane district reported to us that there are patients there with no license, they discovered them because of the termination. They are saying not receiving subsidy at this stage, that is 2479. And the license, the two people are working there but there is a coordinator in charge who was given the license.

20**ADV. NONTLANTLA YINA:** Okay let me show you something else as well. 2481.

DR MAKGABO JOHANNA MANAMELA: 2481.

ADV. NONTLANTLA YINA: Right at the right corner there, it says manager dispense medicine.

DR MAKGABO JOHANNA MANAMELA: Okay.

ADV. NONTLANTLA YINA: The manager is the one who was giving medication to 5the patients.

DR MAKGABO JOHANNA MANAMELA: Okay.

ADV. NONTLANTLA YINA: And if you go to 2484, the first paragraph, patients use jobs as rehabilitations. Activities in the centre, for an example, cleaning, preparing food, household activities. But the ...intervened.

10**ARBITRATOR, JUSTICE MOSENEKE:** What is the question?

ADV. NONTLANTLA YINA: The gist of the question is that this was not a suitable facility for the patients. Do you agree?

DR MAKGABO JOHANNA MANAMELA: I can only talk to when ...intervened.

ADV. NONTLANTLA YINA: Patients were making their own food.

15**DR MAKGABO JOHANNA MANAMELA:** Yes, I can only talk to before we placed the patients, because I was at the strategic level. So after that, how they were doing that, then if I found that they are using patients then that will be something else. But by the time they wanted me to sign a license, the area was assessed at that time. So after that things changed and I cannot dispute ...intervened.

20**ADV. NONTLANTLA YINA:** I will come back to change. I will make sure that we go to change. 2491, the last point on Shama House.

ARBITRATOR, JUSTICE MOSENEKE: That might have to be the last reference.

Let's take our tea break.

ADV. NONTLANTLA YINA: Thank you Justice. 2491 on Shama House, at the bottom, no sickbay, storeroom is untidy, there are scrap metals lying around outside. And on that very table you could see a lot of stuff that is ticked as not suitable for the patients by your own staff. Ventilation not suitable. Ablution facilities not suitable. Toilets not suitable. Wash hand basin not suitable. Baths and showers not suitable. Cooking and dining facilities not suitable... The list goes on. Your own staff found the place to be unsuitable in July. So how is it possible that it was suitable in April when the license was issued?

DR MAKGABO JOHANNA MANAMELA: The very same staff that identified, because they are from the district, they are the one who identified the Ngo. And if they found it unsuitable at that time and reported to me, we would have taken the patients immediately.

15**ARBITRATOR, JUSTICE MOSENEKE:** Maybe, ma'am, maybe you didn't care. You didn't care one bit. You signed whatever you signed and forgot that it was about people with blood and flesh.

DR MAKGABO JOHANNA MANAMELA: That is your assumption, Justice. You don't know how we were working.

20**ARBITRATOR, JUSTICE MOSENEKE:** Show me how much you cared.

DR MAKGABO JOHANNA MANAMELA: But I am telling you.

ARBITRATOR, JUSTICE MOSENEKE: How could you consent patients to Shama under those conditions with your obligations under the statute and under the law, how could you allow that?

DR MAKGABO JOHANNA MANAMELA: I said to you at the time of evaluation, it was found suitable and reported to me that I should issue a license. But if during the process things fall apart and I am made aware... There are a lot of NGOs that we went from the province... actually we start with them and close those NGOs. So I cannot accept, Justice, when you say I just didn't care. I can't accept that.

ARBITRATOR, JUSTICE MOSENEKE: You will be ask many, many more questions and we'll see what you will accept or you don't. But it is going to be a long, long time to explain these deaths and how they happened and your role in them. We adjourn for tea until 12:00.

END OF SESSION 1

LIFE ESIDIMENI ARBITRATION

HELD AT: EMOYENI CONFERENCE CENTER, 15 JUBILEE ROAD, PARKTOWN, JOHANNESBURG

SESSION 2

20

BEFORE ARBITRATOR –JUSTICE MOSENEKE

WITNESSES:

Contents

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SESSION 2

ARBITRATOR JUSTICE MOSENEKE: Thank you, you may be seated. Dr Manamela, you are still under your previous oath to tell the truth.

15 **DR MAKGABO JOHANNA MANAMELA:** Thank you Justice.

ARBITRATOR JUSTICE MOSENEKE: Thank you. Advocate Yina.

ADV. NONTLANTLA YINA: Thank you Justice. Dr Manamela, I will just ask you a few more questions in respect of the assessment. The next assessment that I would like to refer you to, appears on the same file. That would be file number 7,

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page 2494. 2494. Yes. So that is the assessment that was conducted on the 28th of July 2016 at Precious Angels. Can you see that?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel.

ADV. NONTLANTLA YINA: Thank you. So if you go to page 2495, I will just highlight a few things and then we will move on. The second bullet point. It says:

“The number of rooms available is not enough for patients. Some beds are too close to each other. In house 1 the beds in the western wing were placed in such a way that the door could not be closed and the area is windy.”

Do you see that?

10 **DR MAKGABO JOHANNA MANAMELA:** Yes Counsel.

ADV. NONTLANTLA YINA: And then the fourth bullet point from the bottom:

“The centre has electricity but have only cold running water”

And then the next bullet point, the second paragraph:

15 *“While patients are said to have no access to the ground or garden, keeping redundant items in such a way, in such big quantities creates an untidy appearance and could not be, it could be a good breeding place for pests.”*

But the point that I wanted you to take from this is that it would seem that patients did not have access to garden or grounds, and then if you move the last point is, will be page 2497. The first bullet point under medication:

“Patients have not been receiving any medication after the TTO which was brought with on admission from referring facilities when they ran out.”

So at that time, on the 28th of July 2016, your team found that patients did not have, were not receiving medication. So you would agree on the very few points that I highlighted, that then this place was not suitable according to the observations that were made by your team.

DR MAKGABO JOHANNA MANAMELA: Thank you Counsel. From my point of view I was involved in licences before patients were placed. Secondly we are all aware that ... [interjects]

10 **ARBITRATOR JUSTICE MOSENEKE:** But please answer the question, the initial question is do you agree the place was not suitable for looking after mental health care patients? You could say yes or no, and then you could give an explanation if you seek. But there is a question, it always needs an answer.

DR MAKGABO JOHANNA MANAMELA: The answer, I agree with what you are 15 saying Justice, but the answer that I must give must be the answer of where I was. At that time... [interjects]

ARBITRATOR JUSTICE MOSENEKE: No, it is not trying to implicate you. You are ... [interjects]

DR MAKGABO JOHANNA MANAMELA: No, I am not saying you are implicating 20 me, because I am the one who signed the licence. I am working towards that, but if other team maybe went te following day, it will be difficult for me to say I agree, it was not ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: You are not being blamed yet Doctor. They might blame you, another question might. The initial question is you are a psychiatric nurse with a PHD in nursing psychiatry. She reads an inspection report to you and the simple question is was that ideal for looking after patients. Answer, it does not point to whether you are guilty or not. You will say no, and then if you want to explain what you want to explain, of course you are welcome to do so, but I ask you to confront the question and give an answer to that.

ADV. NONTLANTLA YINA: Do you agree with the observations of your team that Precious Angels was not suitable for mental health care users?

10 **DR MAKGABO JOHANNA MANAMELA:** According to this report it was not.

ADV. NONTLANTLA YINA: You would also agree that it was actually, the situation there was contrary to the provisions of the policy that you wanted to achieve, to put patients in a place which is less restrictive. Am I correct? They had no access to grounds. They could not go out. They were confined inside the house. They had no access to grounds or garden. This is against the provisions of the policy that you wanted to achieve. It is not your fault. I am not saying, but from the face of it it would seem.

DR MAKGABO JOHANNA MANAMELA: Probably not, probably yes, because they are supposed to be at home. There are homes where there are no grounds. That is why at a certain level it is no, at a certain level it can still be the place to be suitable.

ADV. NONTLANTLA YINA: They had no access to medication. They were not receiving any treatment.

DR MAKGABO JOHANNA MANAMELA: That is very concerning. That is very concerning. If there were no medications.

5**ADV. NONTLANTLA YINA:** And that would be a contravention of the act itself.

DR MAKGABO JOHANNA MANAMELA: It is very concerning that one, and if I have to qualify that, I could not agree that the patient will be there and on a single day they are without medication.

ADV. NONTLANTLA YINA: In actual fact it was confirmed by Mrs Masondo who
10also visited Precious Angels, and she found patients in bed at two pm. So it, you definitely do agree that it was not an ideal place for patients. Now if you could just please quickly go to ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Let us wait for the witness's response.

DR MAKGABO JOHANNA MANAMELA: I cannot answer that one. I was not
15there with Mrs Masondo. There were two areas of Precious Angels. So I do not even know which one he went, but if he found that they are in bed at two o'clock, that is something that is not acceptable.

ADV. NONTLANTLA YINA: If you could go to file number 3 please. Page 1062.

ARBITRATOR JUSTICE MOSENEKE: Thank you.

20**ADV. NONTLANTLA YINA:** Are you on page 262 Dr Manamela?

DR MAKGABO JOHANNA MANAMELA: 1062.

ADV. NONTLANTLA YINA: 1062, sorry.

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. NONTLANTLA YINA: Yes. If you go to page, keep your finger there and then you go to page 1059, you would note that this was a reply by a former MEC, 5Mr Danie Mahlangu to the legislature and the date is 11 August 2016.

DR MAKGABO JOHANNA MANAMELA: 1069?

ADV. NONTLANTLA YINA: 1069, 59. 59.

DR MAKGABO JOHANNA MANAMELA: 1059. Yes, I am on 1059.

ADV. NONTLANTLA YINA: Yes. Let us go back now to 1062. The last five bullet 10points. The first one of them, the question was:

“What steps are being taken to monitor the NGO’s and deal with complaints by families and others? All new NGO’s are visited every Wednesday and Thursday by officials from the department.”

Now this letter was written about ten days after the inspection that was conducted at 15Precious Angels, and the MEC says that all NGO’s were visited every Wednesday and Thursday. Do you know if that was the case?

DR MAKGABO JOHANNA MANAMELA: I know the case that after placing the patient, there were teams allocated from my office and teams allocated by the MEC through the project team that they should be visited. It can be probably the correct 20information that they are visited Wednesday and Thursday. I am not quite sure when was the district managing their visit on the, or during the week, but

immediately we had teams. Multi disciplinary team. People from my office as well visiting the NGO's.

ADV. NONTLANTLA YINA: But okay. At bullet point number 3:

*“Quality assurance team in hospitals and districts supports the mental health
5 directorate in monitoring and supporting NGO's in the Tshwane district.”*

Were they supporting the NGO's, the monitoring of the NGO's?

DR MAKGABO JOHANNA MANAMELA: Probably so.

ADV. NONTLANTLA YINA: Do you know from when?

DR MAKGABO JOHANNA MANAMELA: Can I take you a little bit, immediately
10 after placing, just two points there:

*“Immediately we placed the patient on the last meeting. Teams were indicated.
Each and every district were given mandate to visit the NGO and those team must
include the quality team and they will write a report.”*

ADV. NONTLANTLA YINA: Continue.

15 **DR MAKGABO JOHANNA MANAMELA:** *“The quality team in the distric.”*

Every district has got a quality team, including the hospital. So they were allocated to say, together with the multi disciplinary team they will visit the NGO and I also from my directorate allocate my DD's to follow the patient that they were busy with when they were discharged from LE. It can be probably so.

ADV. NONTLANTLA YINA: At what intervals, do you remember? How often were the visits?

DR MAKGABO JOHANNA MANAMELA: I am not quite sure of how often, but what I know was that in my office, my team will visit the NGO because they were many. They will join. They will have to be in the office Monday and Friday. The other days they will be visiting the NGO's immediately after the placement.

ADV. NONTLANTLA YINA: Immediately after their placement?

DR MAKGABO JOHANNA MANAMELA: Yes. Like these two ... [interjects]

ADV. NONTLANTLA YINA: So the two NGO's that are selected randomly who had serious challenges, do you think they were visited by the teams?

DR MAKGABO JOHANNA MANAMELA: I should believe that they were visited by the team. That is why that report also indicating, because when they visit and they find problem, they need to assist the NGO about the problem and if it is severe they will report to me, my office and we report to the team. We start to plan where do we, what do we do with the patient.

ADV. NONTLANTLA YINA: You said then they would file reports. Do you have those reports?

DR MAKGABO JOHANNA MANAMELA: ... [inaudible]

ADV. NONTLANTLA YINA: Do you have those reports that they would file after visiting?

DR MAKGABO JOHANNA MANAMELA: Yes, they were given the report and I made sure that every Monday I get the report, because that was the only time I could have time as we were busy with other challenges related, we have a report.

ADV. NONTLANTLA YINA: Do you have a brief remembrance of what those 5 reports entailed? Was everything okay or did you get the impression that NGO's needed support or help or did you get the impression that patients were not receiving medication and food?

DR MAKGABO JOHANNA MANAMELA: In the report, what I can say, it was not just saying everything is okay. Like I said yesterday that the test is in the pudding. 10 We place the patient there, but when they visited they will come up with another challenge and then when we ask what have you done, they will tell you what is the system that has been put in place. That is how it was working, and where there is a need that I actually had to intervene, I will have to intervene and in most cases you find that I was available to go to this NGO myself with challenges only over the 15 weekend, but they will go and report. We met every Monday in my office and the others again will also meet in the project team meeting and it was reported there.

ADV. NONTLANTLA YINA: And then if there are challenges what would you do with those reports? Would you attend to the challenges that have been identified?

DR MAKGABO JOHANNA MANAMELA: Obviously Justice, they will be attended 20 to and if they persist then something need to be done. It means we will take the patient. Talking about the issue of the TTO, the medication, I do not know when they went and how long the medication was not there, but we are all aware that

when the patients were leaving from Life Esidimeni, most of them were not given medication. They gave seven days medication, and I intervene. Immediately I heard that I referred Life Esidimeni to the service level agreement that said when a patient is discharged you give 30 days medication and they comply. I am not quite sure at this report is one of those they did not comply or they complied.

ADV. NONTLANTLA YINA: If I may just ask then. If indeed the visitations and the monitoring was as you allege it was and was what the former MEC alleged it was, what do you think caused the death of the patients?

DR MAKGABO JOHANNA MANAMELA: That is a difficult one Counsel, but in my thinking there is several things that can cause death. You need to look at several variables when we analyse a death. Like we started with the medication. Was the patient taking medication, if the patient was on medication, how long was the medication and what are the side effect of the medication if given and what will develop when the medication was not given and then you look at a lot. Were these patients blood level collected. Do you know how many, how was the blood level for a patient who take medication. So I cannot give, I think the post mortem will tell us what was actually the cause of death because they have many variables that will cause death.

ADV. NONTLANTLA YINA: You know, at Shama the one that I referred you to earlier on, they did not even have the standard first aid kit, never mind the instruments that you are mentioning of checking blood level tests. They did not have that, according to your own team.

DR MAKGABO JOHANNA MANAMELA: That one Counsel, I may not answer because the first aid kit was made available. I cannot answer that one, because like there were boundaries. You know as a director, there is a chief director in the district that oversees everything, but I was overseeing medication. If it was brought 5to my attention about the lack of those emergency equipment, then we will have to take it seriously. We cannot let it very low, but you know as the team were going and assessing, they will come up with the report and if the report thinks like that, we cannot take them very less. We will take them very serious.

ADV. NONTLANTLA YINA: Madam, from the first letter that I referred you to of 10the MEC, the August letter where, the November letter, 8 November 2015 where she said that the plan was to transfer the patients from Life Esidimeni to the psychiatric institutions, and also from the presentations that I also referred to you earlier on that the plan was to transfer them to the institutions and a minimal number to the NGO's, it would seem to me that the issue of the new NGO's was 15indeed an after thought. You only opted for the new NGO's when the renovations did not work out. Am I correct?

DR MAKGABO JOHANNA MANAMELA: You are not correct. It appears if you were given the whole information, I will repeat it again. Germiston Hospitals, those areas that we were going to renovate, were going to be managed by the new 20NGO's. They were not going to be managed by the hospital. It is just that the premises is in the hospital. You know that the Natalspruit was closed. They moved. Germiston closed, moved. So the plan was that we will have new NGO's,

we will have old NGO's, if they can extend because you know we had over 4000 patients already in the NGO's.

ADV. NONTLANTLA YINA: No, I am saying this because you said you were going to use the existing NGO's and about 1100 you were going to transfer them to the psychiatric institution and you said that the reason for terminating the contract with Life Esidimeni was two fold. It was to deinstitutionalise and also to save cost.

DR MAKGABO JOHANNA MANAMELA: Counsel, you are right at other area, but let me take you back to the reason for, you are right at the two reasons, but for the number of beds can I just address through you Justice, that when the patient is in the hospital, they are not going to be in the hospital forever. That is why we included both Germiston Hospital, because we knew that even those that will go to Weskoppies, Cullinan and Sterkfontein, they will at some time be discharged and if the family are not able to take care of them or they cannot or they are not, they have got challenges, we will still use this NGO, Germiston whatever we have indicated here. That was the whole issue. This patient will not be moved from Life Esidimeni to reside permanently at Weskoppies. Weskoppies is for acute patient. So when they worked on them, they will discharge them and they will be occupying the NGO that are on the list.

ADV. NONTLANTLA YINA: Did you involve the review board when you were executing the move of patients from Life Esidimeni to the NGO's?

DR MAKGABO JOHANNA MANAMELA: Yes, we have involved the new board.

ADV. NONTLANTLA YINA: To what extent?

DR MAKGABO JOHANNA MANAMELA: Okay, I just take you also through that. To the better extent, the board was appointed on the 4th of January. By the time they were appointed, that month we had presentation. I gave them when we orientate them, I have informed them at that time it was still the reduction of 200 5beds and the 20 percent. They were informed about that and we were, after we informed them we were working on that. We told them that this is what is going to happen, but we will call you for the meeting. We had a meeting every month with the board to inform them. When we started with the termination after the task team, they were part of the family committee. We had community member in the board. 10The community member and the Chairperson were part of the family committee. When we go out to assess the NGO, they were also invited although they had their other work.

ARBITRATOR JUSTICE MOSENEKE: What was the function of the review board?

15**DR MAKGABO JOHANNA MANAMELA:** The function of the review board is to oversee and ensure that the mental health care services or the mental health care users in the province are well taken care of. There are other things they are doing. Like when you admit ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Okay. When you admit. I am listening.

20**DR MAKGABO JOHANNA MANAMELA:** When you admit they need to review the document. When you discharge they review the document. When the patient feels that she is admitted illegally, they will also have to look at that, and when there

are complaints about the patient admission, they will go and meet with the CEO. So I am just giving a few of their functions.

ARBITRATOR JUSTICE MOSENEKE: Sure. That is helpful, thank you. Did they review the discharges from Life Esidimeni?

5**DR MAKGABO JOHANNA MANAMELA:** The issues that when they discharge, the patient is discharged ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Remember my request. I have asked you to listen to the question and answer the question. I normally ask very short questions, because I hope to get very short answers. That is the most effective way
10to have a conversation between the two of us, okay.

DR MAKGABO JOHANNA MANAMELA: Okay.

ARBITRATOR JUSTICE MOSENEKE: So we are not arguing. I just want to get, it is your evidence and we are asking questions.

DR MAKGABO JOHANNA MANAMELA: Okay.

15**ARBITRATOR JUSTICE MOSENEKE:** Did the review board approve the discharges from Life Esidimeni?

DR MAKGABO JOHANNA MANAMELA: I will not say all of them, but the forms the review board works with the form. When the patient is discharged, the form were sent to them. They were sent to them, but I am not sure if they were all sent
20to them, but they were sent to them, there are other forms that were sent to them.

ARBITRATOR JUSTICE MOSENEKE: You are the director of mental health care. You have a supervisory body which ought, with whom you have to file transfers. I am asking you did you do it with Life Esidimeni?

DR MAKGABO JOHANNA MANAMELA: Yes, with Life Esidimeni that the 5patients are going to be transferred they know, but what ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: What I am saying ... [interjects]

DR MAKGABO JOHANNA MANAMELA: They were part of the meetings.

ARBITRATOR JUSTICE MOSENEKE: Did you follow the statute and ask them to approve or not approve your decision?

10**DR MAKGABO JOHANNA MANAMELA:** No, the Department of Health decision was made and they were called to te meeting. It is not my decision, and I did not go to them, but I know that when the patient are discharged, they are going to get the form and they will advise us. That is how they were working.

ARBITRATOR JUSTICE MOSENEKE: The supervisory body, who did they report 15to?

DR MAKGABO JOHANNA MANAMELA: They were reporting to the MEC.

ARBITRATOR JUSTICE MOSENEKE: And they had a duty to supervise your decisions?

DR MAKGABO JOHANNA MANAMELA: Yes, it is not yes. It was a duty to 20supervise our decision.

ARBITRATOR JUSTICE MOSENEKE: Did you file with them the placements or discharges, because you used the words interchangeable. So their approval or supervision.

DR MAKGABO JOHANNA MANAMELA: No, because they were part of the 5team.

ARBITRATOR JUSTICE MOSENEKE: The answer is no?

DR MAKGABO JOHANNA MANAMELA: No, I did not go to them and say can you approve. No. I did not do it, because ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: You see, Mrs Masondo was here 10remember. We spent two days with her.

DR MAKGABO JOHANNA MANAMELA: I know. I saw what ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: So I am sure you watched. She says in their briefing, that is session by you, they were told that they reported to the head of the department.

15**DR MAKGABO JOHANNA MANAMELA:** That is untrue Justice. They know very well. They never ask a meeting with the head of department. They report to the MEC. They know very well.

ARBITRATOR JUSTICE MOSENEKE: Why did you overlook them?

DR MAKGABO JOHANNA MANAMELA: I have never overlooked them. That 20was untrue.

ARBITRATOR JUSTICE MOSENEKE: No, with Life Esidimeni you told us you did not ... [interjects]

DR MAKGABO JOHANNA MANAMELA: I said I ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: You did not ... [interjects]

5**DR MAKGABO JOHANNA MANAMELA:** I have got a presentation. I can give it to you Justice. I can give you the presentation about what from my office we did to inform the board about that, and I can give you the letter that we wrote, I wrote to I do not want to use I, because I was not working alone in my team. We wrote to the Chairperson and say we ask two doctors, clinicians to go and help in the process
10assessing the patient at Life, and then she agreed and released them, and then when they were in the district, she did the same. When we had ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Did you file in respect of every patient you moved?

DR MAKGABO JOHANNA MANAMELA: Come again?

15**ARBITRATOR JUSTICE MOSENEKE:** Did you file documentation with the review board for every patient you moved from Life Esidimeni?

DR MAKGABO JOHANNA MANAMELA: I, we gave them the report of every patient removed, but because they went to the NGO, the process is that if they go to the NGO, the form will come from the NGO. If they go home, the form will come
20where they are coming from. Every movement of the board, of the patient will end up with the board.

ARBITRATOR JUSTICE MOSENEKE: And did they approve the movement of the patients?

DR MAKGABO JOHANNA MANAMELA: If they do not approve they tell me and then if they approve, they approve. So it was their own individual authority to approve or not to approve. In most cases, because you were at the ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Did you apply on the prescribed form in terms of the act to them to approve your decision to move patients from Life Esidimeni?

DR MAKGABO JOHANNA MANAMELA: That activity was not falling within my responsibility of applying, but it was done in the Life Esidimeni. That is why some of the form were found with the board.

ARBITRATOR JUSTICE MOSENEKE: Who did them?

DR MAKGABO JOHANNA MANAMELA: They are done from where the patient are. If the patient is admitted in Weskoppies, Weskoppies is going to send the form to say board, we have admitted. If they are discharged, they will do the same. It is not coming to my ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Mrs Masondo came here and told us that you told her they actually reported to the head of department. She never knew that she had to supervise your decisions.

DR MAKGABO JOHANNA MANAMELA: No, that is untrue Justice. That is untrue.

ARBITRATOR JUSTICE MOSENEKE: She is being untruthful when she says that?

DR MAKGABO JOHANNA MANAMELA: Ja, she was untruthful. They know, the board advertisement is done by the MEC. They report to the MEC, but we support them. My office support them. We ensure they have got things. We update them on mental health care issues and when they find problem they also come to us.

ARBITRATOR JUSTICE MOSENEKE: You see, you see if you do not act in accordance with the prescriptions of the mental health act and you do not procure the oversight of the review board, what are the consequences? Is that placement lawful?

DR MAKGABO JOHANNA MANAMELA: Come again Judge?

ARBITRATOR JUSTICE MOSENEKE: If you move a patient requiring mental health care from a facility to another, without following the required procedure for the oversight of the review board, is that placement lawful?

DR MAKGABO JOHANNA MANAMELA: It will not be lawful, but there is no way. I am not placing patient. The board deal with the document from the hospitals that is what is happening. Even from Life Esidimeni. Those documents they are dealing with, they are not even coming to me. The board will report, will advise me to say we are going to Weskoppies Hospital, because there is one, two, three challenge. Those documents are not signed by me.

ARBITRATOR JUSTICE MOSENEKE: So your answer is such a placement would not be lawful?

DR MAKGABO JOHANNA MANAMELA: If that is what happened, if they do something like that, it cannot be according to the act, because immediately you apply for a patient, that form must go to the board. The board will decide.

ARBITRATOR JUSTICE MOSENEKE: Have you seen the finding of the Ombud
5on the role of the review board?

DR MAKGABO JOHANNA MANAMELA: The finding of the Ombud on the role of the review board? What I saw, I saw his report on the role of the review board, and I do not know what he was told about that, about their role. I do not know, but the role of the board is that they do not work ... [interjects]

10**ARBITRATOR JUSTICE MOSENEKE:** What is the finding of the Ombud?

DR MAKGABO JOHANNA MANAMELA: What? He has indicated that the board were not following their role, but I do not know if that is what they told the Ombud, but no document that goes to the board. My only role is to ensure that the board has got what they need is to ensure that if they have got a complaint about a patient
15somewhere and they cannot get assisted, they go to the meeting. Then no assistance, then I must intervene. That is my role there with the board, and support them and ensure that they are paid, if they have to, if they claim. So that is my role. The forms does not even reach my office. They just go straight to the board. The hospital, all the hospital that deal with mental ill patient, even voluntary patient, if
20you can send yourself to a hospital now, those document will not go to the mental health unit. It will go to the board and when board have problem, they will also tell you.

ARBITRATOR JUSTICE MOSENEKE: Can I take you away from all of these many words, that there was no compliance with the act in relation to the oversight role of the review board.

DR MAKGABO JOHANNA MANAMELA: They can answer that one, the board can answer that one because I am not a member of the board.

ARBITRATOR JUSTICE MOSENEKE: Well, they have ... [interjects]

DR MAKGABO JOHANNA MANAMELA: And they have not told me that. Because I met with them every week, every month. When there are problem they will tell me what. I can assist them. I will what I cannot. We refer them to the relevant person.

ARBITRATOR JUSTICE MOSENEKE: So what is your answer in all of this clutter of words. What is the answer? Was the placement done in accordance with the act in relation to the review board and its role?

DR MAKGABO JOHANNA MANAMELA: If I have to answer it in relation to the review board, I will say probably so, because after the patient are placed, the form must go to the board.

ARBITRATOR JUSTICE MOSENEKE: When you say probably so ... [interjects]

DR MAKGABO JOHANNA MANAMELA: Yes, because I do not have document to say how many documents were sent to the board. I do not have documents.

ARBITRATOR JUSTICE MOSENEKE: You are the head of this operation. It is your duty to make sure that the law is observed madam. Have you forgotten that?

You are a state functionary. You are paid to act in accordance with the law of our country. Not when you choose according to the prescription of the law. Do you know that?

DR MAKGABO JOHANNA MANAMELA: Justice, I know that.

5**ARBITRATOR JUSTICE MOSENEKE:** Just answer my question. Do you know that?

DR MAKGABO JOHANNA MANAMELA: I know that and I did that, because I am not working with the board. I did that, but I made it a point that we train the hospitals so that they can know how to comply with the board. That was my duty,
10but the duty of the board was not my duty.

ARBITRATOR JUSTICE MOSENEKE: And above all your duty was to protect the lives of these patients. Above all, everything else.

DR MAKGABO JOHANNA MANAMELA: That is what I tried to do. I did that. I did that.

15**ARBITRATOR JUSTICE MOSENEKE:** And they died.

DR MAKGABO JOHANNA MANAMELA: Can I ask one thing?

ARBITRATOR JUSTICE MOSENEKE: In your operation they died.

DR MAKGABO JOHANNA MANAMELA: I do not dispute that Justice. Can I ask that did the patient die in Life Esidimeni or in other hospital. A patient dying. I am
20asking that. I am sorry. I do not want to be insensitive. I am just asking.

ARBITRATOR JUSTICE MOSENEKE: Counsel. You can proceed please.

ADV. NONTLANTLA YINA: Thank you Justice. If I may just refer the witness to the last few documents. That will be file number 8. Maybe whilst you are looking for file number 8, if I may just ask one question in respect of the review board. Did you give the list of the NGO's to the review board? The list of the NGO's where the 5patients have been moved to. Did you give it to the review board? I believe that the board was given a report where the patient was moved after the placements.

DR MAKGABO JOHANNA MANAMELA: I am not quite sure it is after, because they were a part of the project team. So everybody who was part of the project team was accessing the project presentation and understanding what is the 10direction of the department. So I may not commit myself on what you are asking, but you were part. The Chairperson was part and the other team members were also coming.

ADV. NONTLANTLA YINA: Hm ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: And was that lawful that the body that 15must oversight the review and ensure compliance you convert into part of your project team, in which you were the deputy head? Why was it so?

DR MAKGABO JOHANNA MANAMELA: I was, Justice I was not, the meeting were not my meeting. I did my meeting with the board and that meeting was ... [interjects]

20**ARBITRATOR JUSTICE MOSENEKE:** But why were they part of the project team?

DR MAKGABO JOHANNA MANAMELA: Maybe the project team leader and the executive can answer that, because we wanted them to know what is happening to advise properly.

ARBITRATOR JUSTICE MOSENEKE: No, their job is not just to know. It is to approve. Overseer and to refuse to grant support.

DR MAKGABO JOHANNA MANAMELA: Yes, you are right. We wanted them to do all what is their job. So I may not be able to ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: By making them members of the project team.

10 **DR MAKGABO JOHANNA MANAMELA:** No, I am not saying that Justice, but they were working independently from me reporting to the MEC. So I cannot say why they did not do that.

ARBITRATOR JUSTICE MOSENEKE: Mrs Masondo says not.

DR MAKGABO JOHANNA MANAMELA: It is how he is saying that, but that is 15 how it is. Even the law says that. They do not report to the mental health. We give them support.

ADV. NONTLANTLA YINA: Thank you Justice. Page 2770 please. Are you on page 2770?

DR MAKGABO JOHANNA MANAMELA: Almost there Counsel. Yes, I found it.

ADV. NONTLANTLA YINA: Yes. This, the document is entitled resolution for the MEC meeting with senior managers on Life Esidimeni contract relationship termination, 8 April 2016. Were you part of this meeting?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel.

5 **ADV. NONTLANTLA YINA:** If you go to row number 4 please, can you read it on record?

DR MAKGABO JOHANNA MANAMELA: *“Users from Life Esidimeni may be transferred to NGO’s and doctors will follow them at NGO to assess them and replace them to the relevant facility if there is a need.”*

10 **ADV. NONTLANTLA YINA:** What does that mean? What is that paragraph saying?

DR MAKGABO JOHANNA MANAMELA: But it is clear. It is saying the patient, the doctor will follow them. Will go and assess the patient where they are placed, and where they found that the place is not suitable, they can also recommend that
15 the patient are moved. It is just a clear summary of what is here. I do not know how to explain it further.

ADV. NONTLANTLA YINA: My understanding of this, I may be wrong, is that when patients were moved from Life Esidimeni, they were not assessed as you
alleged on Monday. It looks like you were working under pressure and then you
20 decided that they must just go to the NGO’s, doctors will follow them to assess them there.

DR MAKGABO JOHANNA MANAMELA: No. Counsel, it is just a pity you guys were not given information first.

ADV. NONTLANTLA YINA: No, I am reading from the document.

DR MAKGABO JOHANNA MANAMELA: Yes, you are reading and that is how you understand. By the time this was indicated, the patients were assessed. I hope Dr Mokatso told you. Were assessed in the Life Esidimeni before they leave Life Esidimeni and when they reach our NGO's, they were also assessed by our own doctors. They were challenged where they could not be assessed. The very same, I asked Ma Masondo to say Mrs Masondo, it appears the patients that went to Tshwane, they are many and the doctors at Tshwane they are limited. Can the board follow them and the board, the clinician board went there.

ADV. NONTLANTLA YINA: Can I just follow up on the answer that you gave, the first part of the answer?

DR MAKGABO JOHANNA MANAMELA: Okay.

ADV. NONTLANTLA YINA: You said they were assessed, and then if they were assessed, why would the doctors follow them to assess them again at the NGO's?

DR MAKGABO JOHANNA MANAMELA: That is a good question, because now they are at a new environment. The process ... [interjects]

ADV. NONTLANTLA YINA: So it was a follow up assessment?

DR MAKGABO JOHANNA MANAMELA: Yes, like when we take the patient to Life Esidimeni, we take them from Weskoppies for example. Within seven days

they reach Life Esidimeni. They should have been assessed by a doctor in Life Esidimeni.

ADV. NONTLANTLA YINA: Yes, I am with you.

DR MAKGABO JOHANNA MANAMELA: So that is the same process that we were trying to do. They move Life Esidimeni, assessed by the doctor, they are in the NGO, re-assessed again by the doctor.

ADV. NONTLANTLA YINA: And they would be placed in NGO's according to the capacity of the NGO and according to the licence, am I correct?

DR MAKGABO JOHANNA MANAMELA: Yes, if the doctor found that where they are they are not suitable, they can re-recommend. Same applies, if we take a patient from Weskoppies I will just say Weskoppies, but all our hospitals, to Life Esidimeni and by the time within seven days of assessment Life Esidimeni found that these patients are not suitable to be here, they will also re-arrange that they either go back where they are coming back from or they send them somewhere. That is the process.

ADV. NONTLANTLA YINA: But this to me accords with the version of the families who are saying that they went to and fro inbetween NGO's trying to find their relatives and they would find that they have moved from one NGO to another NGO. It follows that you were under pressure to remove them from Life Esidimeni and you would take them to any NGO, and then you will sort that out later whether they should go to Precious Angels or Anchor House or any other NGO. That is my reading of this paragraph.

DR MAKGABO JOHANNA MANAMELA: I think your reading of this paragraph Justice, you read it from the area where you are seated. Not from the mental health care point, because from the mental health care point this is what I am telling you. I am telling you this was the minutes from the MEC's meeting. It was saying the exact formula or the exact policy that we are following. So you have got right to understand it that way, but as the director for mental health services, I am trying to explain to you, you can call anyone from the hospital. They will tell you the same.

ARBITRATOR JUSTICE MOSENEKE: Who by law has the power to discharge a mental health care patient?

10 **DR MAKGABO JOHANNA MANAMELA:** The multi disciplinary team, mental health care patient is managed by multi disciplinary team. It is not like me having headache going to the hospital.

ARBITRATOR JUSTICE MOSENEKE: Let us not go all over. Who in law, is authorised ... [interjects]

15 **DR MAKGABO JOHANNA MANAMELA:** The multi disciplinary team and doctor will sign the letter.

ARBITRATOR JUSTICE MOSENEKE: And the multi disciplinary team will be located where the patient is being held before the discharge.

DR MAKGABO JOHANNA MANAMELA: Yes, yes.

20 **ARBITRATOR JUSTICE MOSENEKE:** Is that an executive decision in other words or is it a clinical decision?

DR MAKGABO JOHANNA MANAMELA: It is a clinical, that is why I said the doctor and multi disciplinary team. It is a clinical decision. It is not a management decision to discharge a patient.

ARBITRATOR JUSTICE MOSENEKE: So must we accept that everyone who was moved from Life Esidimeni was discharged by multi disciplinary team at Esidimeni?

DR MAKGABO JOHANNA MANAMELA: What I can say, what I am sure of Justice, is that there was a doctor from our board and there were doctors from Life, which I cannot talk for, because I am not sure. But there was a doctor, there was the team member of disciplinary, nurses that are from my office and nurses from them and social workers, but my two teams that I indicated, Waverley two people, Randwest two people, they were there to ensure that the doctor does not discharge the patient for placement alone. So myself from where I am standing or sitting or from the strategic level, I will say yes.

ARBITRATOR JUSTICE MOSENEKE: Yes?

DR MAKGABO JOHANNA MANAMELA: Yes, the patient before they left Life Esidimeni they were assessed by the doctor and members of the multi disciplinary team.

ARBITRATOR JUSTICE MOSENEKE: And does the multi disciplinary team and the doctor have an option?

DR MAKGABO JOHANNA MANAMELA: Yes, they have.

ARBITRATOR JUSTICE MOSENEKE: Under law, under law.

DR MAKGABO JOHANNA MANAMELA: Under law they have an option, but maybe let me qualify, maybe let me leave it Justice, but I was going to say under law they have got an objection, but as they were doing this work the termination was already given. The notice was given. So they were ensuring that everyone will be discharged.

ARBITRATOR JUSTICE MOSENEKE: So the termination and your decision to remove the patients, overrode the role that the law requires of the doctors at Esidimeni. Is that right, and the multi disciplinary team?

10**DR MAKGABO JOHANNA MANAMELA:** I will not say it is right and I will not say it is no Justice, because they were guided by what they see the patient and they identified, that is why we have got patient at Weskoppies, because the team that saw the patients ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: [Vernacular 00:45:28]. The law says, you 15told me now you need the multi disciplinary team, so you tell me which assesses and concludes voluntarily that a patient must be discharged and the doctor is the one who finally would then authorise the discharge, right?

DR MAKGABO JOHANNA MANAMELA: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: And I am asking you the next question 20was, did it happen at Esidimeni. You said your people were there.

DR MAKGABO JOHANNA MANAMELA: Yes.

ARBITRATOR JUSTICE MOSENEKE: And then I asked you further and I say if, did you allow the doctors to have an option in this instance of the marathon project or was this an executive decision?

DR MAKGABO JOHANNA MANAMELA: There were many variables. It was an executive decision, but the doctor will assess the patient and say you are placed to this place. If the patient has to be discharged, you can be discharged.

ARBITRATOR JUSTICE MOSENEKE: Did the doctors, any of the doctors direct where the patients were to go to?

DR MAKGABO JOHANNA MANAMELA: Yes, I believe they directed where the patient had to go.

ARBITRATOR JUSTICE MOSENEKE: No, you should not play games now.

DR MAKGABO JOHANNA MANAMELA: No, I am not playing games Judge.

ARBITRATOR JUSTICE MOSENEKE: Just look at your plan that you gave us, where you handed in. You specified patients and where they should go to, in numbers did you not?

DR MAKGABO JOHANNA MANAMELA: No, the plan that we had it is the plan that specified the numbers that must be moved ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: I am trying to understand the role of the clinicians at Esidimeni. That is all.

DR MAKGABO JOHANNA MANAMELA: I gave you ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Did they have any option or they had to get the patients out of there?

DR MAKGABO JOHANNA MANAMELA: Because of termination, they had to get the patient out of Life Esidimeni.

5**ARBITRATOR JUSTICE MOSENEKE:** And they had ... [interjects]

DR MAKGABO JOHANNA MANAMELA: They had to assess this one can go to this place, this one can go to that place, but the other thing the termination was also hanging over what they are going to decide.

ARBITRATOR JUSTICE MOSENEKE: Did the assessment matter? Was
10anybody placed by a doctor at the specific NGO?

DR MAKGABO JOHANNA MANAMELA: Yes, it matters. Justice, assessment matters. It matters.

ARBITRATOR JUSTICE MOSENEKE: No, did any, listen to the question. Did
any doctor say you are going to Siyabadinga? You are going to Anchor? You are
15going to Cullinan?

DR MAKGABO JOHANNA MANAMELA: Okay.

ARBITRATOR JUSTICE MOSENEKE: Did any doctor at Life Esidimeni do that?

DR MAKGABO JOHANNA MANAMELA: The doctor, they did that. They said
they look at the functioning of the patient. Like we have got three hospitals. Two
20specialise in mental illness.

ARBITRATOR JUSTICE MOSENEKE: I am not going to go there.

DR MAKGABO JOHANNA MANAMELA: Ja, I want you to understand Justice.

ARBITRATOR JUSTICE MOSENEKE: Yes.

DR MAKGABO JOHANNA MANAMELA: Because now if I am going to say yes and you do not understand why, they know who should go to Weskoppies because of the condition of mental illness. They know which patient must go to Cullinan. They know which patient can still go to the NGO.

ARBITRATOR JUSTICE MOSENEKE: Which doctors are you referring to now?

DR MAKGABO JOHANNA MANAMELA: I am referring for the two doctors that we asked Mrs Masondo to release so that they assist them, because those are the 10 doctors that I know, and there were also some doctors at Life Esidimeni which I did not ask them.

ARBITRATOR JUSTICE MOSENEKE: Your evidence is that they chose the destination of mental health care users.

DR MAKGABO JOHANNA MANAMELA: Yes, they will choose that this one is 15 mentally ill, must go to Weskoppies. This one is disable intellectually disabled severely, must go to Cullinan. This one must go to the NGO that deals with the mentally disable people.

ARBITRATOR JUSTICE MOSENEKE: And are there records of these decisions? Can we access them?

20 **DR MAKGABO JOHANNA MANAMELA:** I do not have the records.

ARBITRATOR JUSTICE MOSENEKE: You see, many people have testified before you about the project.

DR MAKGABO JOHANNA MANAMELA: Hm.

ARBITRATOR JUSTICE MOSENEKE: Over which you were in charge and they have told us what happened.

DR MAKGABO JOHANNA MANAMELA: No.

ARBITRATOR JUSTICE MOSENEKE: They told us how patients were headed out of the hospital and placed on busses, on where ever else, and this notion that the doctors chose where they were going to go to, is startling to say the least.

10**DR MAKGABO JOHANNA MANAMELA:** That one I will not answer Justice, because I was not there, but what I know that we paid the doctors that will be at Waverley, the doctor that will be at Wesrand, and the two DD's in Waverley and Wesrand and the other one that were helping in the placement. That is what I know, because I am being called to tell you what I know, and I cannot tell you what
15people told you. I tell you what I know and I have got records who was allocated were.

ARBITRATOR JUSTICE MOSENEKE: Very simply we can invert the question. Who made the decision which patient should go to which facility. Who made that call?

20**DR MAKGABO JOHANNA MANAMELA:** The placing team with the doctor.

ARBITRATOR JUSTICE MOSENEKE: Placing team who work for?

DR MAKGABO JOHANNA MANAMELA: Who works for the Department of Health and those who are in Life Esidimeni which I am not quite sure who was there.

ARBITRATOR JUSTICE MOSENEKE: They say you refused to give them the NGO list. They say they do not know where the patients were taken to. They asked and pleaded. You never told them where they were taken to. How would they know where to take the patients.

DR MAKGABO JOHANNA MANAMELA: What I know, what I remember Justice is that Dr Mokatswa asked for NGO list. Every year we give Life Esidimeni NGO list. That is what I did. I email it to him, the NGO list. So by that time I could not say this goes to this one, this one goes. But they have got the list, because they are the one throughout the years of the contracts, they were discharging patients to the NGO, not us. Very few were discharged from our own hospital and they will give us report. I have got the report that shows how many the Life Esidimeni has discharged. For example, the very last year they discharged 667 patients and they know the NGO's.

ARBITRATOR JUSTICE MOSENEKE: No, we are talking about the marathon project. Did they know where the patients had to go to?

DR MAKGABO JOHANNA MANAMELA: Yes, because the placing team was there. The placing team was there and in the meeting ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Your placing team?

DR MAKGABO JOHANNA MANAMELA: My placing team. In the meeting with the two Life Esidimeni manager, we agreed that the social worker of the Life Esidimeni, because they know the family and they have been interacting with them for so many years, they have to inform the family that so and so is leaving to this place. When they reach at that place, ours because they have received them, our coordinators together with the NGO, must inform the family if the family are there that indeed we have received so and so, and this meeting, I went there. I commissioned that meeting with the Life Esidimeni manager. Dr Mokatswa was not there, because he was the overall. But I have got minutes and attendance register. I can give it to the Justice.

ARBITRATOR JUSTICE MOSENEKE: Minutes of what?

DR MAKGABO JOHANNA MANAMELA: Minutes of the meeting that we had where we said how do we agree when the patient are moved.

ARBITRATOR JUSTICE MOSENEKE: I am interested in what happened.

15 **DR MAKGABO JOHANNA MANAMELA:** Minutes of what?

ARBITRATOR JUSTICE MOSENEKE: Counsel, go ahead.

ADV. NONTLANTLA YINA: Thank you Justice. For the sake of completeness madam, I would like to refer you to the Ombud's findings in respect of the minutes that I read out to you. The Ombud found that 45 patients were referred from one NGO to another after placement. Do you agree with that?

DR MAKGABO JOHANNA MANAMELA: I agree.

ADV. NONTLANTLA YINA: And I just want to show you one thing before I finalise my examination. On file number 8 which is before you, page 2727 it is a minute of another meeting which was held on the 9th of November 2015. Right at the bottom.

DR MAKGABO JOHANNA MANAMELA: And?

5**ADV. NONTLANTLA YINA:** 2727, file number 8. It is the same filed that I referred to you a moment ago, where there is a minute where you said users may be transferred to NGO and doctors would follow them for assessment.

DR MAKGABO JOHANNA MANAMELA: 2727?

ADV. NONTLANTLA YINA: Yes, please. Right at the bottom.

10**DR MAKGABO JOHANNA MANAMELA:** Yes, I found it.

ADV. NONTLANTLA YINA: It says, maybe you can read it on record please.

DR MAKGABO JOHANNA MANAMELA: Which paragraph?

ADV. NONTLANTLA YINA: The second column, the last bullet point. The one that starts with Professor Gina.

15**DR MAKGABO JOHANNA MANAMELA:** 2727?

ADV. NONTLANTLA YINA: Yes.

DR MAKGABO JOHANNA MANAMELA: The one that starts with Professor Gina. I do not see it. Alright, I see the last one? Yes.

ADV. NONTLANTLA YINA: If you could read it on record please.

DR MAKGABO JOHANNA MANAMELA: *“Prof Gina mentioned that NGO’s are not well equipped and if patient relapse they send them to the hospital and refuse to take them back.”*

ADV. NONTLANTLA YINA: Okay, if you could just read it to the mike please.

5**DR MAKGABO JOHANNA MANAMELA:** Okay.

“Prof Gina mentioned that NGO’s are not well equipped and if patient relapse, they send them to hospital and refuse to take them back.”

ADV. NONTLANTLA YINA: And then can you read the heading on the second last column. the responsible person, who was the responsible person to ensure
10that, far right.

DR MAKGABO JOHANNA MANAMELA: Dr MJ Manamela.

ADV. NONTLANTLA YINA: Yes. So Professor Gina on 8 November in the meeting is telling you that NGO’s are not well equipped and you were the responsible person to ensure that in fact they are well equipped. Did you ensure
15that they were well equipped before patients were transferred?

DR MAKGABO JOHANNA MANAMELA: Before the patient were transferred, we ensured that they were well equipped.

ADV. NONTLANTLA YINA: You did.

DR MAKGABO JOHANNA MANAMELA: Yes.

20**ADV. NONTLANTLA YINA:** Now do you know how many of those NGO’s were closed down by the end of 2016, that you believe were well equipped?

DR MAKGABO JOHANNA MANAMELA: I know there were NGO's that were closed, but I cannot tell you how many of them were closed, but I know they were closed and the closing of the NGO is always what we used to do. If the NGO, we found there are challenges we will close the NGO. So I know there were NGO's
5closed.

ADV. NONTLANTLA YINA: And you are aware of how many patients died at those NGO's?

DR MAKGABO JOHANNA MANAMELA: Because I was not given change to prepare that. I do not know how many patient, but I know for certain there were
10NGO's that were closed, and the other thing I will say, the NGO if they cannot manage a patient, they have got the right not to take that patient, and what Professor Gina was saying is agreeable. They cannot take the patient if they cannot manage and I will not agree with that.

ADV. NONTLANTLA YINA: Would you not concede that the licences that you
15issued to NGO's, you did not conduct a proper investigation to establish whether or not they were equipped to take care of the patients. Now we know they were not, because many people died.

DR MAKGABO JOHANNA MANAMELA: The licence that I sent, I sent to the people who were not well equipped.

20**ADV. NONTLANTLA YINA:** To the NGO's that were not well equipped.

DR MAKGABO JOHANNA MANAMELA: At the time that I wrote the licence we saw the facility, they were well equipped.

ADV. NONTLANTLA YINA: Now, today.

DR MAKGABO JOHANNA MANAMELA: Ja, today.

ADV. NONTLANTLA YINA: Today you know that they were not well equipped.

DR MAKGABO JOHANNA MANAMELA: Today is something else. Today I know
5that if they are not well equipped, yes today is ... [interjects]

ADV. NONTLANTLA YINA: No, no today you know that those NGO's were not
well equipped. That is the question.

DR MAKGABO JOHANNA MANAMELA: Today I will say so, but there are other
issues that need to be considered. I will give you one example of one NGO. There
10was one NGO called Tshepong. I went there with Moswenoge and other team
members. We assessed the place. We found they had a lot of professional ...
[inaudible], but because they were not paid in time, these people left. So that is why
I am saying ... [interjects]

ADV. NONTLANTLA YINA: Can I just make an example.

15**DR MAKGABO JOHANNA MANAMELA:** I will qualify that, I will say yes, but I will
qualify it.

ADV. NONTLANTLA YINA: Can I make an example? You do not have to qualify
it. The answer is yes or no. Today you know, we all know that they were not well
equipped. That is why so many people died. Now we know that they did not have
20doctors. Do you think they needed to have doctors on premises?

DR MAKGABO JOHANNA MANAMELA: The ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: ANswer to that question. Now we know that they did not have doctors.

DR MAKGABO JOHANNA MANAMELA: Now I know they did not have doctors and the NGO ... [interjects]

5**ARBITRATOR JUSTICE MOSENEKE:** Yes. Now we know that they were not given medication. What is your answer to that?

DR MAKGABO JOHANNA MANAMELA: Can I ask, can I respond? I think I was called to give you what I know. I know now that they did not have doctors. The NGO are not by law are binding to have a doctor. Why? Because we gave them
10the link of the clinic. When they have got a problem, this is the clinic where they will go. Secondly, even in Life Esidimeni, the patient were seen by the doctor in six months unless there are problems, because we are not talking about acute patient. So I wanted you to understand that six months they will be seen by the doctor, but if the patient has a problem before six months, the patient must be seen by the
15doctor.

ADV. NONTLANTLA YINA: Can I just ask you one question Dr Manamela? You heard what Justice said earlier on, that yesterday we heard that one NGO was feeding patients from food, left overs that she received from hospitals, from hotels. Now you have patients who have dietary requirements, not so? Do you think that
20food was adequate, just for that one NGO? Do you think that was proper?

DR MAKGABO JOHANNA MANAMELA: I do not think I will answer that Justice, Counsel, because now as far as I know the NGO before I left they were paid. I do

not know what. So I will be unable to answer that question, and I feel sorry and I feel bad for the patient to be given meals from where ever she is getting the meals, but I cannot answer that one.

ADV. NONTLANTLA YINA: On Shama, your own team conducted an investigation and found that he did not have any diet. He would cook food as and when he receives from donations. Do you think that was proper, for patients some of whom have dietary requirements?

DR MAKGABO JOHANNA MANAMELA: That was not proper.

ADV. NONTLANTLA YINA: Yes. So you would agree that they were not fit to have those patients, do you not?

DR MAKGABO JOHANNA MANAMELA: I cannot answer that one, because I give the same answer all the time.

ADV. NONTLANTLA YINA: Thank you Justice. That will be evidence in chief.

ARBITRATOR JUSTICE MOSENEKE: Thank you. Thank you Counsel.
Advocate Hassim.

ADV. ADILA HASSIM: Thank you Justice.

ARBITRATOR JUSTICE MOSENEKE: I think you want to introduce yourself to ...
[interjects]

ADV. ADILA HASSIM: I will.

ARBITRATOR JUSTICE MOSENEKE: You will, as you always do. Indeed.

ADV. ADILA HASSIM: Good afternoon Dr Manamela.

DR MAKGABO JOHANNA MANAMELA: Afternoon Counsel.

ADV. ADILA HASSIM: My name is Adila Hassim and I am one of the legal representatives for the families of the deceased that are present here today. I would like to begin with understanding Dr Manamela what your duties was as a director of mental health. Can you describe to us what your duties were?

DR MAKGABO JOHANNA MANAMELA: My duties was providing strategic support to the institution and the community health services that provide mental health care and ensuring quality of services.

10**ADV. ADILA HASSIM:** What does strategic support mean?

DR MAKGABO JOHANNA MANAMELA: It means that you are at the planning level of that service.

ADV. ADILA HASSIM: You plan.

DR MAKGABO JOHANNA MANAMELA: And then monitor and ensure there is
15monitoring and evaluation.

ADV. ADILA HASSIM: You plan, you manage, you monitor and you ensure there is monitoring that continues.

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. ADILA HASSIM: And what is the salary level of a director in the
20department?

DR MAKGABO JOHANNA MANAMELA: I think you can get that, salary level it is level 13. It is level 13.

ADV. ADILA HASSIM: And how senior does that make a director?

DR MAKGABO JOHANNA MANAMELA: Like I said yesterday, you are at the fourth line of ... [interjects]

ADV. ADILA HASSIM: So you are quite senior?

DR MAKGABO JOHANNA MANAMELA: You are. I was not quite senior ... [interjects]

ADV. ADILA HASSIM: What was your salary? What is your salary?

10**DR MAKGABO JOHANNA MANAMELA:** I cannot disclose my salary.

ADV. ADILA HASSIM: You were a public servant.

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. ADILA HASSIM: And your salary is paid by, amongst others people who sit in this room.

15**DR MAKGABO JOHANNA MANAMELA:** Yes.

ADV. ADILA HASSIM: I think it is okay to disclose your salary.

DR MAKGABO JOHANNA MANAMELA: Yes, but I think you can find my salary from the HR in the department.

ADV. ADILA HASSIM: You do not know what your salary is?

DR MAKGABO JOHANNA MANAMELA: I am not in a position to answer that question.

ADV. ADILA HASSIM: Because you do not know or because you do not want to?

DR MAKGABO JOHANNA MANAMELA: I have been out of the department the whole of this year. So the HR people will be able to tell you of the salary level of the director.

ADV. ADILA HASSIM: Are you, have you been suspended?

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. ADILA HASSIM: Are you on paid suspension?

10**DR MAKGABO JOHANNA MANAMELA:** Yes.

ADV. ADILA HASSIM: So you have been drawing a salary since the beginning of the year while you were on suspension?

DR MAKGABO JOHANNA MANAMELA: That is correct.

ADV. ADILA HASSIM: And I am asking you what is that amount that you are
15drawing?

DR MAKGABO JOHANNA MANAMELA: Yes, I cannot disclose that, because I only get what I get, but there is a level that is indicated, which when you prepare this document you can also get it from the department.

ADV. ADILA HASSIM: Okay. I take your answer, which is you refuse to answer,
20but we will find out. You registered ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: You know that you may not refuse to answer a question unless you have a lawful ground that you may have to tell me.

DR MAKGABO JOHANNA MANAMELA: My lawful ground is that I am suspended. I do not know the level of the salary that I get. I just know the money that is deposited. So that is my reason. So every salary has got level. You can be a director, but at a certain salary level. So I cannot say anything about that, and ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Okay, I am just Counsel, continue to ask the questions.

10 **DR MAKGABO JOHANNA MANAMELA:** And I am giving latitude to find that from the department.

ARBITRATOR JUSTICE MOSENEKE: No.

DR MAKGABO JOHANNA MANAMELA: Because they know very well.

ARBITRATOR JUSTICE MOSENEKE: No.

15 **DR MAKGABO JOHANNA MANAMELA:** They will look at my ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: If you are sworn in to answer a question, unless there is a valid lawful reason, you can go and look at the law, you are obliged to answer the question.

DR MAKGABO JOHANNA MANAMELA: If I know exactly the question Justice I
20 will answer.

ARBITRATOR JUSTICE MOSENEKE: Okay.

ADV. ADILA HASSIM: I will put the question again.

ARBITRATOR JUSTICE MOSENEKE: Put the exact question.

ADV. ADILA HASSIM: Sorry. Maybe you misunderstood me. I was not asking at what level your salary is picked at currently and so on. I am asking how much are you earning? What is the amount? What is your salary? What do you take home every month?

DR MAKGABO JOHANNA MANAMELA: I will not answer that one.

ADV. ADILA HASSIM: Why will you no?

DR MAKGABO JOHANNA MANAMELA: I will not divulge what I am taking home.
10 I will not.

ADV. ADILA HASSIM: Why no?

DR MAKGABO JOHANNA MANAMELA: I am not feeling comfortable with that.

ADV. ADILA HASSIM: Do you accept that you are a public servant?

DR MAKGABO JOHANNA MANAMELA: Yes, I am but I can, I am a public
15 servant.

ADV. ADILA HASSIM: And you are still being paid while you have been on suspension.

DR MAKGABO JOHANNA MANAMELA: That is correct.

ADV. ADILA HASSIM: And you have been on suspension, when were you placed
20 on suspension?

DR MAKGABO JOHANNA MANAMELA: From the time, March. I think from March. February, when the report was ... [interjects]

ADV. ADILA HASSIM: Is it March or is it February?

DR MAKGABO JOHANNA MANAMELA: It is February.

5**ADV. ADILA HASSIM:** February.

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. ADILA HASSIM: So you have been taking a salary since February, you have confirmed that.

DR MAKGABO JOHANNA MANAMELA: That is correct.

10**ADV. ADILA HASSIM:** And you will not tell us what your salary is?

DR MAKGABO JOHANNA MANAMELA: That is correct.

ADV. ADILA HASSIM: I will tell you what your salary is perhaps after the lunch adjournment. You are registered as a professional nurse. Is that correct?

DR MAKGABO JOHANNA MANAMELA: Tht is correct.

15**ADV. ADILA HASSIM:** Are you registered with the South African Nursing Council?

DR MAKGABO JOHANNA MANAMELA: That is correct.

ADV. ADILA HASSIM: And do you understand the scope of your responsibilities as a nurse?

DR MAKGABO JOHANNA MANAMELA: That is correct.

ADV. ADILA HASSIM: And you have spoken to us, you have answered a little earlier about the fact that you are not obliged to obey and unlawful order. Is that correct?

DR MAKGABO JOHANNA MANAMELA: That is correct.

5**ADV. ADILA HASSIM:** And if there is a conflict between an order from a superior and your own ethical obligation to respect the rights and interests of patients, which one would you prioritise?

DR MAKGABO JOHANNA MANAMELA: The patient one.

ADV. ADILA HASSIM: You would prioritise the patients.

10**DR MAKGABO JOHANNA MANAMELA:** That is correct.

ADV. ADILA HASSIM: And would you say that you did so in the course of this project?

DR MAKGABO JOHANNA MANAMELA: Can I explain this course of the project?

ADV. ADILA HASSIM: Okay, let me rephrase the question.

15**DR MAKGABO JOHANNA MANAMELA:** No, because there is miscommunication.

ARBITRATOR JUSTICE MOSENEKE: Sorry, sorry again ... [interjects]

DR MAKGABO JOHANNA MANAMELA: I am here as the director, not because I am a nurse.

ARBITRATOR JUSTICE MOSENEKE: Dr Manamela, just give me one opportunity.

DR MAKGABO JOHANNA MANAMELA: Okay.

ARBITRATOR JUSTICE MOSENEKE: [Vernacular 01:09:07]. So we will not, I know how you feel but we cannot have witnesses hackled and shouted down. We cannot do our work in that circumstance. I ask you again a little mumble in your breathe may do, but the witness deserve all the opportunity and respect. Please Counsel.

ADV. ADILA HASSIM: Thank you Justice. My question is, what I asked you is I asked you if there is a conflict between an order from a superior and the rights and interests of the patients which would you prioritise, and you said you would prioritise the rights and interests of the patients.

DR MAKGABO JOHANNA MANAMELA: That is correct.

ADV. ADILA HASSIM: And my next question to you was do you think you prioritise the rights and interests of the patients in the course of this project?

DR MAKGABO JOHANNA MANAMELA: Related to my profession. That is what you are asking.

ADV. ADILA HASSIM: I am asking you did you prioritise, related to you Dr Manamela as a person, did you prioritise the rights and interests of the patients?

DR MAKGABO JOHANNA MANAMELA: The earlier question, let me answer it. I will answer it two ways. The first question that I need this proceeding to

understand, is that I am where I am functioning, earning the salary as a manager, not as a nurse. As a person who has advantage of having advanced nursing in psychiatry. I am working because of my masters in public health. So I am at that level. Not at the level of making decision or taking care of patients, but the patients is still my priority.

ADV. ADILA HASSIM: Sorry, I have to interrupt you because you misunderstand and you are not actually helping us.

DR MAKGABO JOHANNA MANAMELA: Okay.

ADV. ADILA HASSIM: You have, you are right. You are there as a director, you are there as a public official. Do you agree that you are bound by the constitution?

DR MAKGABO JOHANNA MANAMELA: Yes, I agree.

ADV. ADILA HASSIM: So under the constitution do you not have a duty to respect and protect the rights of the patients?

DR MAKGABO JOHANNA MANAMELA: I have got the duty.

ADV. ADILA HASSIM: Yes. So can you now answer my question? My question was for the third time, do you think that you respected and protected the rights of the patients during this project?

DR MAKGABO JOHANNA MANAMELA: I think I did.

ADV. ADILA HASSIM: And you think you did as you sit here today?

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. ADILA HASSIM: So why would 143 people have died?

DR MAKGABO JOHANNA MANAMELA: I do not know, because I do not have post mortem, but I can give you things that we must look at. I think I gave the former Counsel who was asking me. There are a lot of variables that you need to look at when a patient died.

ADV. ADILA HASSIM: No. We do not need to go there.

DR MAKGABO JOHANNA MANAMELA: Okay, but from my ... [interjects]

ADV. ADILA HASSIM: We do not need to go there, because we have got a lot of information on how the patients died and we are going to get to that.

10 **DR MAKGABO JOHANNA MANAMELA:** Yes.

ADV. ADILA HASSIM: As we continue.

DR MAKGABO JOHANNA MANAMELA: From my function ... [interjects]

ADV. ADILA HASSIM: But if I can just then move on, you said that you are the director of mental health, but you say the decision to terminate the contract was a collective decision. Is that correct?

DR MAKGABO JOHANNA MANAMELA: It was the decision that was made by the leadership of the department, and the work, the implementation was a collective decision.

ADV. ADILA HASSIM: It was a collective decision?

20 **DR MAKGABO JOHANNA MANAMELA:** A collective work.

ADV. ADILA HASSIM: You were not responsible for the implementation?

DR MAKGABO JOHANNA MANAMELA: I was part of the implementation team.

ADV. ADILA HASSIM: And you were not responsible for the payment to the NGO's?

5**DR MAKGABO JOHANNA MANAMELA:** No, I was.

ADV. ADILA HASSIM: The payment of the subsidies.

DR MAKGABO JOHANNA MANAMELA: No.

ADV. ADILA HASSIM: Was not your job?

DR MAKGABO JOHANNA MANAMELA: No.

10**ADV. ADILA HASSIM:** It was the job of the finance department?

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. ADILA HASSIM: And it was not your responsibility to visit the NGO's, is that correct?

DR MAKGABO JOHANNA MANAMELA: It was part of my responsibilities.

15**ADV. ADILA HASSIM:** But you did not visit the NGO's?

DR MAKGABO JOHANNA MANAMELA: I did visit those that I can visit. Not all of them.

ADV. ADILA HASSIM: How many did you visit?

DR MAKGABO JOHANNA MANAMELA: I did visit Takalani, Anani, you mean before placement?

ADV. ADILA HASSIM: Yes.

DR MAKGABO JOHANNA MANAMELA: I visited Takalani, I visited Anani, I visited Cullinan.

ADV. ADILA HASSIM: Sorry, the third one?

DR MAKGABO JOHANNA MANAMELA: Cullinan also.

ADV. ADILA HASSIM: Cullinan.

DR MAKGABO JOHANNA MANAMELA: Cullinan, the ... [inaudible] that were supposed to be the NGO's.

ADV. ADILA HASSIM: You mean by Cullinan are you talking about, because ... [interjects]

DR MAKGABO JOHANNA MANAMELA: The 100 beds that were ... [interjects]

ADV. ADILA HASSIM: So you are talking about Anchor and Siyabadinga?

DR MAKGABO JOHANNA MANAMELA: That was before they were there. Is it not that we are talking before placement?

ADV. ADILA HASSIM: Yes.

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. ADILA HASSIM: So what was there that you were visiting. I asked you which NGO's you visited.

DR MAKGABO JOHANNA MANAMELA: Yes. It is because the NGO assessment include even infrastructure, include a lot of things. So that is why we visited Cullinan there. The renovation site.

ADV. ADILA HASSIM: Okay, Cullinan and what else?

5**DR MAKGABO JOHANNA MANAMELA:** Then we visited, I visited Bopelong. I think I visited I think the very same Shama, Takalani.

ADV. ADILA HASSIM: Shama, yes.

DR MAKGABO JOHANNA MANAMELA: Ja, that is these are the NGO I can remember, but I know that after that I also visited some of the NGO. I do not have
10exact amount, number of how many of them I visited.

ADV. ADILA HASSIM: You mentioned five. You mentioned Cullinan which is actually a state facility, and other than Cullinan you have mentioned four out of the 27. So earlier in your testimony you said it was the placement teams that were responsible. Do you still hold that view?

15**DR MAKGABO JOHANNA MANAMELA:** The placement team that was responsible for assessment. Let me get the answer well, the question well.

ADV. ADILA HASSIM: Yes.

DR MAKGABO JOHANNA MANAMELA: Yes. There was an NGO team that is from the district and then we develop NGO marathon team that was, that will
20include ourselves and the engineer and those team members who are available.

ADV. ADILA HASSIM: So they were responsible for assessing the NGO's?

DR MAKGABO JOHANNA MANAMELA: They visited most of the NGO's.

ADV. ADILA HASSIM: Okay. So it was not your responsibility, it was theirs?

DR MAKGABO JOHANNA MANAMELA: Ja, it was theirs.

ADV. ADILA HASSIM: Yes. And the service level agreements you say were not signed from your office?

DR MAKGABO JOHANNA MANAMELA: That is correct Counsel?

ADV. ADILA HASSIM: Who did that? Whose responsibility was that?

DR MAKGABO JOHANNA MANAMELA: Every district chief director will sign, the process say every district director will sign, chief director will sign the service level agreement.

ADV. ADILA HASSIM: That is not your responsibility.

DR MAKGABO JOHANNA MANAMELA: No.

ADV. ADILA HASSIM: And you too did not give the instruction to discharge patients from Cullinan into the NGO's?

15 **DR MAKGABO JOHANNA MANAMELA:** No Counsel.

ADV. ADILA HASSIM: Not your, you do not take responsibility for that. In your earlier testimony on Monday Justice Moseneke put a question to you about whether you were in charge of the implementation of the plan, and you said no. You said it was a group effort. You said your unit was in charge.

20 **DR MAKGABO JOHANNA MANAMELA:** I was a deputy ... [interjects]

ADV. ADILA HASSIM: And then you said, let me finish.

DR MAKGABO JOHANNA MANAMELA: Okay.

ADV. ADILA HASSIM: And then I will put the question to you. Then you said to the Justice why should it be a person. Do you recall that?

5**DR MAKGABO JOHANNA MANAMELA:** I do not recall it.

ADV. ADILA HASSIM: I am reading to you from your transcripts. Those were your words. Do you still agree with that? You can tell me if you have changed your mind.

DR MAKGABO JOHANNA MANAMELA: I think that was the project mandate to
10ensure that termination goes smooth. There were certain duties that will be allocated from my office and certain duties that will be allocated from the other offices.

ADV. ADILA HASSIM: Yes, but your question was why should it be a person who
is in charge of implementation. When we began, when I began I asked you what
15your responsibilities were as a director, and you used the words planning, implementation, execution and monitoring. Those were the words you used.

DR MAKGABO JOHANNA MANAMELA: Planning, ensuring information, ensuring monitoring and evaluation.

ADV. ADILA HASSIM: Yes.

20**DR MAKGABO JOHANNA MANAMELA:** Ensuring quality services.

ADV. ADILA HASSIM: Good. That is what we would want out of the director. Were you the only director of mental health during the transfer of the mental health care users?

DR MAKGABO JOHANNA MANAMELA: That is correct Counsel.

5**ADV. ADILA HASSIM:** So what were you responsible for?

DR MAKGABO JOHANNA MANAMELA: My responsibility was to support the decision that were taken by the executive and also support the project manager in the light of the being the director for mental health services, so that I can continuously guide and support where there is a need.

10**ADV. ADILA HASSIM:** So you were not responsible for implementation?

DR MAKGABO JOHANNA MANAMELA: Like I said, the team the project team were responsible for implementation.

ADV. ADILA HASSIM: Who is the person who is responsible? Who would you say was responsible?

15**DR MAKGABO JOHANNA MANAMELA:** The termination as it was given, the project team had to be given function to, for implementation. So ... [interjects]

ADV. ADILA HASSIM: And who gave the project team functions?

DR MAKGABO JOHANNA MANAMELA: From the meeting, the previous Counsellor just indicated to me what was said in one meeting. So that is where we
20were getting the direction and guidance and ... [interjects]

ADV. ADILA HASSIM: But that is director of mental health and this being a project that is specific to mental health care users. You did not have direct responsibility for any one thing.

DR MAKGABO JOHANNA MANAMELA: That is why I said yesterday I started with the task team.

ARBITRATOR JUSTICE MOSENEKE: No, not that is why. Start with the, answer the question.

DR MAKGABO JOHANNA MANAMELA: There were some ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: It may require an explanation or a reason, but there is a direct question, just give it a direct answer.

DR MAKGABO JOHANNA MANAMELA: Ja, but I cannot say I did not have any responsibility.

ARBITRATOR JUSTICE MOSENEKE: Could you repeat the question?

ADV. ADILA HASSIM: I will repeat the question. My question is as the director of mental health unit in relation to a project that was, that directly involved mental health care users, are you saying that you did not bear a direct responsibility for anything in this project?

DR MAKGABO JOHANNA MANAMELA: I did not say that.

ADV. ADILA HASSIM: What did you bear a direct responsibility for?

DR MAKGABO JOHANNA MANAMELA: Like I told you that I was, I delegated, I started with the planning team. I was part of the project. I delegated my staff. We

did the patient profiling. We met with the Life Esidimeni. Asked the board to investigate the deaths that took place, and also asked the board to assist in assessing the patient. The function can be all all. I can go all, and also ensuring that ... [interjects]

5 **ADV. ADILA HASSIM:** So you bore direct responsibility for all of that?

DR MAKGABO JOHANNA MANAMELA: No, I am just saying I was ensuring, like ... [interjects]

ADV. ADILA HASSIM: My question was ... [interjects]

DR MAKGABO JOHANNA MANAMELA: I was ensuring ... [inaudible] are there.

10 **ADV. ADILA HASSIM:** My question was for what functions did you bear direct responsibility. You have told us a lot about project teams and task teams and meetings and minutes and delegations and placement teams and NGO teams. I am not asking anymore about those issues of teams. I am asking you what responsibilities you bore as the director in your capacity as a director.

15 **DR MAKGABO JOHANNA MANAMELA:** But I do not understand Counsel. That is what I said. What I did not even indicate is that I also had to attend to the court cases.

ADV. ADILA HASSIM: No, we will come to the court cases.

DR MAKGABO JOHANNA MANAMELA: Yes, I am just saying that because I ...

20 [interjects]

ADV. ADILA HASSIM: Can you answer ... [interjects]

DR MAKGABO JOHANNA MANAMELA: Maybe I do not get it what you are really looking for.

ADV. ADILA HASSIM: What I am asking you are not understanding.

DR MAKGABO JOHANNA MANAMELA: Maybe I do not get it.

5**ADV. ADILA HASSIM:** What do you, what functions were you responsible for that we can say if this went wrong, Dr Manamela, you must answer for it.

DR MAKGABO JOHANNA MANAMELA: I said ... [interjects]

ADV. ADILA HASSIM: Which function?

DR MAKGABO JOHANNA MANAMELA: I was responsible at the beginning to
10commence the team, to communicate the senior decision to my team, to support the project leader, to present report or progress to the MEC and to engage the family as I was also engaging them.

ADV. ADILA HASSIM: So if anything went wrong in relation to those things we can say to you Dr Manamela, you are responsible?

15**DR MAKGABO JOHANNA MANAMELA:** I will not agree. Partly I can agree, but I will not fully agree because it was not an individual. If you ask me of mental health directorate only then I will agree fully, but if you ask me in terms of project I will not fully agree.

ADV. ADILA HASSIM: No, I am asking you for your individual responsibility.

20**DR MAKGABO JOHANNA MANAMELA:** In terms of project or in terms of mental health services?

ADV. ADILA HASSIM: I am asking you in relation to this particular project. The transfer of mental health care users. What did you have individual responsibility. Individual and direct responsibility.

DR MAKGABO JOHANNA MANAMELA: Individual responsibility was to ensure that things are running smooth.

ADV. ADILA HASSIM: Okay, thank you.

ARBITRATOR JUSTICE MOSENEKE: I do not hear you say that the patients are taken care of. That they get the quality care that they deserve.

DR MAKGABO JOHANNA MANAMELA: I think I mentioned it when she asked ...
10[interjects]

ARBITRATOR JUSTICE MOSENEKE: That their lives are protected. Does it include your responsibility?

DR MAKGABO JOHANNA MANAMELA: It includes the quality care. It is included there. Ensuring that the patient, mental health care user, are well taken
15care of in the province.

ARBITRATOR JUSTICE MOSENEKE: Indeed so madam.

DR MAKGABO JOHANNA MANAMELA: That is ensuring ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: None of our jobs, like you are a public servant and I was for 15 years, none of our jobs are about us. They are about
20those we serve.

DR MAKGABO JOHANNA MANAMELA: I know Counsel.

ARBITRATOR JUSTICE MOSENEKE: And to ensure their wellbeing. My job was to ensure that South Africans enjoy justice on their constitution, and if it did not happen where I worked, I knew I was on the hook. I am responsible. That is what Counsel is trying to ask you. What are your, what were your responsibilities in relation to this project. Go and think about it during lunch time. When we come back it will be helpful to us to understand what you know to be on the hook for. What are you charged of. What is it which goes wrong and we go only one place to you. Whoever you might employ. We are adjourned until half past two.

23 November 2017

SESSION 3

ARBITRATOR JUSTICE MOSENEKE: Thank you, you may be seated. You are still under your previous oath Dr Manamela. Counsel.

5**ADV ADILA HASSIM:** Justice, I request leave to hand out two further exhibits as ELAH 82 and ELAH 83, for the witness to be provided with the documents as well

ARBITRATOR JUSTICE MOSENEKE: I accept to the record ELAH 82 and ELAH 83.

ADV ADILA HASSIM: I'll begin with ELAH 82 Dr Manamela in relation to your
10salary. So, ELAH 82 is a document that is produced by the department of public service and administration and it relates to conditions of service, of the senior management service, the number is DPSA circular 5 of 2016. Do you have that with you Dr Manamela?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel, I have it.

15**ADV ADILA HASSIM:** Attached to the circular, the last page, is the page from the circular that is relevant to your position – do you see that? On the left hand column, it says Director, level 13 – SMS level 13.

DR MAKGABO JOHANNA MANAMELA: Yes I see that.

ADV ADILA HASSIM: ...and, is it correct – I heard you say earlier that you are at
20level 13?

DR MAKGABO JOHANNA MANAMELA: That is correct.

ADV ADILA HASSIM: So, the salary banned for a director begins at R898 743.00 at the lowest rank and it goes up to R1 058 691.00 – do you see that?

DR MAKGABO JOHANNA MANAMELA: I see it.

5**ADV ADILA HASSIM:** So, that's the salary banned and you are located somewhere in there – somewhere between R900 000.00 and just over a million? Is that correct? Is that correct?

DR MAKGABO JOHANNA MANAMELA: I am the director – that's correct.

ADV ADILA HASSIM: So then, in relation to ELAH 83 – do you have that in front of
10you?

DR MAKGABO JOHANNA MANAMELA: Yes, I have.

ADV ADILA HASSIM: It's a – the title of the document is Gauteng provincial legislature reply and it is within the health portfolio committee in the provincial legislature and it is from the MEC for health and it is to all the members of the
15legislature – in reference to question 5, HL067, it is also dated at the top of the document, 14th August 2017 – can you confirm that?

DR MAKGABO JOHANNA MANAMELA: Yes, I've got the bottom one – the one at the bottom, the second page.

ADV ADILA HASSIM: I am just still reading the document into the record and I am
20just describing what the document is, for now, and I am just confirming we are both on the same page.

DR MAKGABO JOHANNA MANAMELA: Okay, that's correct Counsel.

ADV ADILA HASSIM: Dated 14th August 2017, do you see that?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel.

ADV ADILA HASSIM: If you can turn over the page, under or next to roman numeral number 1 (i) the question is: *which officials have been suspended with pay* and that is a reference to officials implicated in the transfer of Life Esidimeni mental health care users, and can you tell us which officials have been suspended with pay – what does it say?

DR MAKGABO JOHANNA MANAMELA: It is the first two doctors - Selebano and myself.

ADV ADILA HASSIM: So, the two officials that have been suspended with pay – Dr Selebano and yourself?

DR MAKGABO JOHANNA MANAMELA: That's correct.

ADV ADILA HASSIM: ...and next to roman numeral 2 (ii) it says, the question is: *on what dates were they suspended* and in relation to you, the date is 15th February 2017 – is that correct?

DR MAKGABO JOHANNA MANAMELA: That's correct.

ADV ADILA HASSIM: ...and then roman numeral 3 (iii) which is the 3rd question – the question is: *how much in rands and cents has been paid to each of them since their suspensions* – for Dr Selebano, who was suspended on the 8th of February

2017 – so, this is between February and July – for Dr Selebano, the amount is R784 039.56 – do you see that?

DR MAKGABO JOHANNA MANAMELA: I can see it.

ADV ADILA HASSIM: ...and in relation to you Dr Manamela, the amount from 15th February until July 2017 the amount is R385 269.01 – is that correct?

DR MAKGABO JOHANNA MANAMELA: I see it is written here.

ADV ADILA HASSIM: Do you agree that you've been paid between 15th February and July?

DR MAKGABO JOHANNA MANAMELA: I didn't make calculation, but if it is written here, what do I say? It is the calculation from HR.

ADV ADILA HASSIM: ...but you don't know if this is correct? Don't you know what you get paid every month?

DR MAKGABO JOHANNA MANAMELA: Come again.

ADV ADILA HASSIM: You can't confirm whether this figure is correct or not?

15**DR MAKGABO JOHANNA MANAMELA:** What I know is that I am still on being paid – so, I am not quite sure, because I didn't know of the figure. So, if they put the figure to you, then it means that is what they give you.

ADV ADILA HASSIM: So, if we are a bit conservative and divide R385 269.01 by 6 months, assuming it is inclusive of this period February and July, it works out about 20R64 000.00 per month – does that sound right?

DR MAKGABO JOHANNA MANAMELA: Uh, uh-uh. I can't answer that one – I told you, I can't answer for myself – I can't answer that one.

ADV ADILA HASSIM: Are you saying this is incorrect?

DR MAKGABO JOHANNA MANAMELA: I am not saying it is not incorrect, because I didn't calculate myself and I don't get payslip, because I am not in the hospital...

ADV ADILA HASSIM: How do you get paid – does it get paid into your bank account?

DR MAKGABO JOHANNA MANAMELA: Yes, it is just the bank account.

10**ADV ADILA HASSIM:** So, is this the amount that you've been paid? It is yes or no – does it look right to you? It doesn't have to be down to the cent – they have gone down to the cent.

DR MAKGABO JOHANNA MANAMELA: If the department says that, it means they have worked it out – what do I say? I can't say they didn't work it out...

15**ADV ADILA HASSIM:** That is not my question – I didn't ask if the department worked it out – I am asking whether you can confirm that this is correct?

DR MAKGABO JOHANNA MANAMELA: It means it is correct if they say that.

ADV ADILA HASSIM: So, you confirm that is the amount?

DR MAKGABO JOHANNA MANAMELA: I can say - if they say that is correct, then that is what I can say.

ADV ADILA HASSIM: It is correct?

ARBITRATOR JUSTICE MOSENEKE: I don't understand what the problem is Dr Manamela – you know salaries of public officials are gazetted – if you want to know what I earn, you go to government gazette – you can Google it now – you go to government gazette, it will tell you what the deputy chief justice of South Africa earns – you want to know what the President earns – it is a transparent system. So, I don't know why we have to spend so much time.

DR MAKGABO JOHANNA MANAMELA: Justice, I don't have time – if she can take it as that – all that I said is that I didn't work it out, that's all, but if this is what is there, then it is fine – it is there. So, I don't have a problem, but I couldn't say anything.

ARBITRATOR JUSTICE MOSENEKE: We are Public Officials, our salaries are a public matter – they are known – if you want to know what I earn, you can get it just like that. What the president earn – just like that – get it on Google, get it in the Government Gazette – the salary is there. So, why are we struggling like this?

DR MAKGABO JOHANNA MANAMELA: We don't have to.

ARBITRATOR JUSTICE MOSENEKE: Okay.

ADV ADILA HASSIM: So, we accept that this is the correct figures, and what I want to stress Dr Manamela – I am not putting this question to you in a frivolous manner, it is relevant and it is relevant for the following reason: you hold a senior position as a public servant – the salary indicates the seniority of your position and so, it is important that we are able to get answers from you as to what happened

during the marathon project – that is why I am putting this to you – not to be frivolous and not to harass you. If this is the salary level – like I’ve said, the lowest rank is about R900.000.00, you’ve said you’ve tried to place responsibility on the range of other people – either you have been too senior to have done something that is left to teams on the ground or you are too junior to take responsibility. So, that is why I am putting this to you to say it is a senior position, it is rewarded handsomely, it is a public position and so you must have been responsible – would you agree?

DR MAKGABO JOHANNA MANAMELA: I have never refused where I have been responsible. I have indicated my responsibility to you.

ADV ADILA HASSIM: Well, you try to evade your responsibility.

DR MAKGABO JOHANNA MANAMELA: That is how you see it Justice, it is not what I said to you – you asked me what’s my responsibilities – I told you.

ADV ADILA HASSIM: Yes, except you don’t take direct and individual responsibility – that was my questions, it wasn’t about putting teams in place – that is the question we left off, before we broke for lunch – wasn’t about putting teams in place. It was about ensuring about things work properly and that the buck would stop with someone.

DR MAKGABO JOHANNA MANAMELA: I told you that in the mental health unit, I’m responsible to ensure that mental health services in the province are functioning effectively and efficiently – that’s my role and I also indicated to you, my role in terms of the project.

ADV ADILA HASSIM: So, if your function is to ensure that mental health services function effectively and efficiently, would you say you've succeeded in that during the marathon project?

DR MAKGABO JOHANNA MANAMELA: During the termination of contract relationship between Gauteng Life Esidimeni – my responsibility of ensuring that things are put together – starting with communicating with Life after I got the termination, commencing the team, the task team, getting the ...

ADV ADILA HASSIM: ...but, we now know with the hindsight that it wasn't effective or efficient – isn't that so?

10**DR MAKGABO JOHANNA MANAMELA:** Yes – can I finish? Because I am just giving you my responsibility – ensuring that the hospital who will get the patient that are involved and then signing those licence – at the end, what do I say – there were challenges, which I've never said there were no challenges.

ADV ADILA HASSIM: Okay. So, it wasn't effective and it wasn't efficient? Were 15you warned of the challenges that would come?

DR MAKGABO JOHANNA MANAMELA: Were we warned?

ADV ADILA HASSIM: Were you warned of the risks of the project?

DR MAKGABO JOHANNA MANAMELA: If you look at the project plan – there are risks that we have indicated – we were meeting with people, they indicated that we 20need to be careful and that is why we had to have the risk indicated that this is what we are thinking that we must guard against so that the patients are well taken care

of. So, some of the areas where we would want – it depends – it was not myself who can take everything that people were warning about, because those...

ARBITRATOR JUSTICE MOSENEKE: Were you warned about the risks is the question.

5**DR MAKGABO JOHANNA MANAMELA:** The department were given letters – the project team manager were given letters, where I was also a deputy to say: *you must stop the project...*

ADV ADILA HASSIM: Okay, let's do that – let's go there – let's go there to the warnings and let us just be a bit precise. Isn't it correct that you were warned – let me just start here – the termination took place in September 2015, is that correct?

DR MAKGABO JOHANNA MANAMELA: The note is correct.

ADV ADILA HASSIM: ...and you were warned by the clinicians on 28th April 2015 – so, well in advance of the termination...

ARBITRATOR JUSTICE MOSENEKE: ...and you expect a response from the witness? I know you have a lot to chew there – were you warned on the day that Counsel has just mentioned?

DR MAKGABO JOHANNA MANAMELA: Yes, the date – the letter was written to the department and I was also given that letter – during April.

ADV ADILA HASSIM: 28th April?

20**DR MAKGABO JOHANNA MANAMELA:** Yes ...

ADV ADILA HASSIM: 2015?

DR MAKGABO JOHANNA MANAMELA: Yes...

ADV ADILA HASSIM: ...well in advance?

DR MAKGABO JOHANNA MANAMELA: Yes – let me finish. When we were busy with planning team ...

5**ADV ADILA HASSIM:** Okay, I am not asking you anymore about teams – I suggest it is better if you don't talk about teams any further. I am asking about your role. So, 28th April 2015, you confirm – can you please open the file with the Ombuds report – Ovekeng(?), if you can please assist me – it's an ELAH file and it is Annexure 8A of ELAH 2. ELAH 2, Annexure 8A, it's page 41.

10**ARBITRATOR JUSTICE MOSENEKE:** Thank you.

DR MAKGABO JOHANNA MANAMELA: Page 41?

ADV ADILA HASSIM: Do you have it?

DR MAKGABO JOHANNA MANAMELA: I am still checking.

ARBITRATOR JUSTICE MOSENEKE: It's page 41 you are taking us to?

15**ADV ADILA HASSIM:** Page 41, that's correct.

DR MAKGABO JOHANNA MANAMELA: Yes, I found it.

ADV ADILA HASSIM: ...and this is the letter of 28th April 2015 – the first written warning ...

DR MAKGABO JOHANNA MANAMELA: Uh-uh.

20**ADV ADILA HASSIM:** Isn't that so?

DR MAKGABO JOHANNA MANAMELA: Uh-uh, excuse me...

ARBITRATOR JUSTICE MOSENEKE: No. It's patronising disposition of unaccountable power.

DR MAKGABO JOHANNA MANAMELA: Page 41? It's an Affidavit.

5**ADV ADILA HASSIM:** It's ELAH 2 – it's with the Annexures the Ombud's report Justice.

DR MAKGABO JOHANNA MANAMELA: ELAH, volume 2

ARBITRATOR JUSTICE MOSENEKE: Okay.

ADV ADILA HASSIM: ...and it is page 41 of ELAH2.

10**DR MAKGABO JOHANNA MANAMELA:** It is not this one.

ARBITRATOR JUSTICE MOSENEKE: Okay.

ADV ADILA HASSIM: Have you found it Justice?

ARBITRATOR JUSTICE MOSENEKE: It's the Memorandum to Dr Manamela?

ADV ADILA HASSIM: That's the Memorandum.

15**ARBITRATOR JUSTICE MOSENEKE:** Uh-huh, thank you.

ADV ADILA HASSIM: Did you find it Dr Manamela?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel, I found it.

ADV ADILA HASSIM: ...and it is addressed to you.

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV ADILA HASSIM: ...and it is dated 28th April 2015?

DR MAKGABO JOHANNA MANAMELA: Correct.

ADV ADILA HASSIM: ...and it's by several professors and doctors, psychiatric professionals?

DR MAKGABO JOHANNA MANAMELA: Correct.

ADV ADILA HASSIM: Can I ask you to look at page 4 – I am not going to go through the entire letter, we've been through this in these proceedings before and I am sure you are aware of this letter – are you aware of this letter?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel, I am aware of the letter.

ADV ADILA HASSIM: So, at page 4 of the letter, which is page 44, paginated page 44 – under the heading: Financial implications, the clinicians say the following: *we were informed that the main reason for the accelerated discharge of patients from Life Esidimeni is to reduce health care costs and thus contribute to expenditure reduction within the provincial government. As discussed in the meeting, we respectfully submit, that the process being followed will in fact escalate and not reduce direct and indirect health care costs* and then they provide their reasons. Do you see that?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel, I see it.

ADV ADILA HASSIM: I am going to put a question to you now, I just want you to have regard of the following paragraph before I do so and that is in the conclusion and it is the second paragraph, in which they say: *we note that this decision will*

have a devastating impact on the health and social wellbeing of mental health care users, the health care system and members of the community. We also note that this decision will likely escalate health care costs in our province. What was your response to this – to these concerns?

5 **DR MAKGABO JOHANNA MANAMELA:** Thank you Justice, thank you Counsellor. Upon receiving the letter, because we're meeting every two weeks – I advised the clinicians that the letter was misdirected to me, because I didn't take this decision of that termination of that reduction of beds – reduction, it was on the policy of 20%. So, I advised them to redirect the letter to the leadership and what I
10 have noticed later – they were all part of the leadership of the project team and in the meeting at the project team, none of the people who wrote here has ever indicated in my presence, to the leadership MEC, HOD and other team members that this was going to be devastating process.

ARBITRATOR JUSTICE MOSENEKE: What are you saying now? I don't
15 understand this. You received the letter – let's take it in small putts – this is someone that would feed on an elephant, this is an elephant [inaudible 20:51] as they say in Swahili – piece by piece – you received the letter.

DR MAKGABO JOHANNA MANAMELA: Correct.

ARBITRATOR JUSTICE MOSENEKE: What did you do with the letter?

20 **DR MAKGABO JOHANNA MANAMELA:** I received the letter.

ARBITRATOR JUSTICE MOSENEKE: Yes?

DR MAKGABO JOHANNA MANAMELA: As they have opportunity to meet with me, two weekly. I advised that as they cc the leadership with this letter – this part must be taken on with the leadership, because I didn't make decisions to reduce the 20% - that was when we were still working on 20%. So, that was what I advised them about when...

ARBITRATOR JUSTICE MOSENEKE: This was on the 28th of April 2015.

DR MAKGABO JOHANNA MANAMELA: Yes, we have not yet busy with termination by that time.

ARBITRATOR JUSTICE MOSENEKE: Did you write back to them? You are the main recipient of the letter – did you write back and say: *sorry, wrong address*?

DR MAKGABO JOHANNA MANAMELA: No, I couldn't, because I was going to meet with them the following week, because we were meeting every week. So, I indicated to them that letter, although you did cc to my leadership, you should address it to the leadership that took decisions, because I showed them the letter that was sent by HOD that ...

ARBITRATOR JUSTICE MOSENEKE: ...but they've already sent it to your leadership, so what...

DR MAKGABO JOHANNA MANAMELA: Yes, yes

ARBITRATOR JUSTICE MOSENEKE: What are you saying now?

DR MAKGABO JOHANNA MANAMELA: What I am saying – in short – because I was not – I couldn't, I was not power to organise the meeting for them with the

leadership. So, that why I advised that he should have been to HODs cc Dr Manamela, then I would take it...

ARBITRATOR JUSTICE MOSENEKE: ...but, they have done that already.

DR MAKGABO JOHANNA MANAMELA: They've done that – the letter says: To 5Dr Manamela, it was sent to me and then cc the leadership. So that's why I said in the meeting where we were meeting – the letter was misdirected, can you direct this letter to the relevant people...

ARBITRATOR JUSTICE MOSENEKE: Anyway Counsel...

ADV ADILA HASSIM: Your answer Justice the answer is: it's not my department, 10address your concerns elsewhere.

DR MAKGABO JOHANNA MANAMELA: No, I didn't, no.

ADV ADILA HASSIM: Is that not what you are saying?

DR MAKGABO JOHANNA MANAMELA: No, that is not what I am saying, I said to them that 20% reduction is not coming from mental health directorate, so I will be 15unable to answer – let's direct this letter to the leadership, the HOD, who signed the letter to say we are reducing by further 20% and we were not fighting – we agreed to ...

ADV ADILA HASSIM: So you say the decision to reduce to transfer patients from Life Esidimeni is not your decision, therefore the letter was inappropriately 20addressed to you? Is that what you are saying?

DR MAKGABO JOHANNA MANAMELA: That's what I am saying, because it was responding to 20% reduction of beds...

ADV ADILA HASSIM: So, you said to the clinicians that they should take their concerns to whom, if not you?

5**DR MAKGABO JOHANNA MANAMELA:** I said to the clinicians the letter that was sent to Life Esidimeni to reduce to 20 for further 20% does not come from my office, so let's this letter to be proper if it is directed to the executive of department of health Gauteng.

ADV ADILA HASSIM: Okay, that's sufficient – it wasn't your concern. Can you please turn – you see Dr Manamela, it doesn't matter if you say it or not...

DR MAKGABO JOHANNA MANAMELA: Yes, but I...

ADV ADILA HASSIM: It doesn't matter, because you are being evasive – when I ask you the question, you repeatedly said that you said to the clinicians that they must direct their concerns elsewhere

15**DR MAKGABO JOHANNA MANAMELA:** That's not true Justice, not elsewhere – you need to understand how government works – it's not like private entity that is how the government works...

ADV ADILA HASSIM: What do you mean with how the government works?

DR MAKGABO JOHANNA MANAMELA: The government...

20**ADV ADILA HASSIM:** ...keep pointing fingers at each other.

DR MAKGABO JOHANNA MANAMELA: The government, how the government works – if there is this where the decision has been made in a particular area – that particular area is above where the implication would - the implementation would take place – the letter should be directed there and they will call me and we can discuss...

ADV ADILA HASSIM: So, you were not responsible for the implementation?

DR MAKGABO JOHANNA MANAMELA: We were not even started with the implementation at that time. It was just us starting with the meeting, everybody was free to indicate what do they think about the project.

10**ADV ADILA HASSIM:** Did you agree with the concerns of the clinicians?

DR MAKGABO JOHANNA MANAMELA: There are areas where I agree with the concerns of the clinicians and we were working together to say let the letter be directed properly.

ADV ADILA HASSIM: Not to you?

15**DR MAKGABO JOHANNA MANAMELA:** Yah, it was not supposed to be directed to me.

ADV ADILA HASSIM: Okay. The second warning, before the contract was actually terminated - ...

ARBITRATOR JUSTICE MOSENEKE: Before you go to the second warning –
20once you have seen the contents of the letter, which parts did you agree with?

DR MAKGABO JOHANNA MANAMELA: We had a mental health policy that we were still working on, that is what we were trying to identify where those patients who is discharged from Life Esidimeni at that time...

ARBITRATOR JUSTICE MOSENEKE: I'm asking about the letter here before us – stake me to parts and paragraphs where you agree with the letter.

DR MAKGABO JOHANNA MANAMELA: I need to read some paragraphs, because I just saw this letter as it was indicated now and I have to answer it... I agreed with the paragraph which was it was therefore agreed that an urgent meeting with the honourable MEC held... I don't know, the last part 1 the last after 10the last paragraph before 3 before the process – it was therefore agreed that an urgent meeting with the honourable MEC Mahlangu should be requested where the issue can be discussed, with a view to ensure that patients with severe mental illness that had benefited from care treatment rehabilitation at Life Esidimeni hospital can continue to serve effective and cost effective mental health care. So, I 15agreed with them, but I was not the person who can arrange the meeting for the MEC. MEC has his staff to arrange the meeting, that's why I said...what do I say? It's better if you redirect this letter to the relevant section and we'll join there.

ARBITRATOR JUSTICE MOSENEKE: Anyway Counsel, you'll have to take it. Let me just ask you one more question ... in the conclusion – do you agree with the part 20that says that the decision will have devastating impact on the health and social wellbeing of health care users? Can you see that paragraph? Just above the last one.

DR MAKGABO JOHANNA MANAMELA: About the international experience?

ARBITRATOR JUSTICE MOSENEKE: No. Conclusion, conclusion...

DR MAKGABO JOHANNA MANAMELA: Okay, can I just look at it Justice?

ARBITRATOR JUSTICE MOSENEKE: Conclusion – above the one you read earlier about the meeting with the honourable MEC...

DR MAKGABO JOHANNA MANAMELA: Above the one I read earlier?

ARBITRATOR JUSTICE MOSENEKE: Yes. We know that this decision will have devastating impact on the health and social wellbeing of mental health care users – do you also agree with that part?

10 **DR MAKGABO JOHANNA MANAMELA:** I don't see it, but I agree with it.

ARBITRATOR JUSTICE MOSENEKE: No, no. I want you to see it – it is important – page 45.

DR MAKGABO JOHANNA MANAMELA: I am using that page Justice.

ARBITRATOR JUSTICE MOSENEKE: I beg your pardon?

15 **DR MAKGABO JOHANNA MANAMELA:** I am using the laptop here – I am pushing it up and down ...

ARBITRATOR JUSTICE MOSENEKE: You can use our record – it is Volume 1, page 45 – that is what Counsel referred you to.

ADV ADILA HASSIM: Justice, while we try to locate it ...

20 **ARBITRATOR JUSTICE MOSENEKE:** Yes?

ADV ADILA HASSIM: Dr Manamela, if you've got an electronic copy – it is under Conclusion the second paragraph under Conclusion.

ARBITRATOR JUSTICE MOSENEKE: Yes.

DR MAKGABO JOHANNA MANAMELA: Okay, all right – before the conclusion?

5**ADV ADILA HASSIM:** Yes. Have you found it?

DR MAKGABO JOHANNA MANAMELA: Yes, I found it.

ADV ADILA HASSIM: ...and you agree?

DR MAKGABO JOHANNA MANAMELA: That's correct.

ADV ADILA HASSIM: I'll

10**DR MAKGABO JOHANNA MANAMELA:** Yes Counsel,

ADV ADILA HASSIM: It also says – just above the Conclusion that this is likely to result in the escalation of medical and legal claims against our department – did you agree with that?

DR MAKGABO JOHANNA MANAMELA: That's correct.

15**ADV ADILA HASSIM:** ...and what did you do, if you were in agreement of that, what did you do about it?

DR MAKGABO JOHANNA MANAMELA: Like I was saying to you Counsel is that this letter were requesting a meeting for all the team to meet with the MEC and present what they were thinking. So, like I said, I said: *can you please redirect this*
20*letter to the MEC and then when she called a meeting, I'm willing, I'll be there* – they

kept on asking me and I said no, redirect the letter to the MEC. We'll go and meet – the MEC finally met us, but I was not told, because of this letter.

ADV ADILA HASSIM: Okay, so you agree with what they are warning you about, but you continue to implement the termination?

5**DR MAKGABO JOHANNA MANAMELA:** The termination was not my decision and they are saying...

ADV ADILA HASSIM: I am talking about the termination.

DR MAKGABO JOHANNA MANAMELA: Yes, the same team that wrote here, they were part of the team, and in those meetings, none of them ever advised
10anywhere according to this letter. So, it was not on my position to say this clinicians you wrote this letter, follow-up what what, but all of them were there, they were given duties, they were coming...

ADV ADILA HASSIM: ...but, what about your duties – you said you agreed with this.

15**DR MAKGABO JOHANNA MANAMELA:** Yes, but that was not my duty to say, because they were coming to the meetings – if they were not...

ADV ADILA HASSIM: It was not your duty?

DR MAKGABO JOHANNA MANAMELA: If they were not part of the project team, I will go to the chief director and say: chief director, this is the problem and I briefed
20her and said this is the problem, but we advised the clinician to redirect the letter to the MEC. While I am still waiting for the letter to be redirected there was a meeting

there was a project team – none of them said they wouldn't take part, then we went to the meeting given the delegation, did all what we need to do and that's why I couldn't action the letter, because the meeting was requested with the MEC. I had a meeting with them, I know they were not keen for that for the termination...

5 **ADV ADILA HASSIM:** Couldn't you raise the concern in the meetings that this was going to have devastating impact on the health and social wellbeing of mental health care users?

DR MAKGABO JOHANNA MANAMELA: It was always a priority to say that if we are not careful, this would have a devastating result, but because the team were
10 working together and meeting the MEC – it was like, we will be able to overcome everything, even after placement.

ADV ADILA HASSIM: You see – it doesn't make sense, because the reasons why this concern arose was because of several factors, including the need to have already established community based care – to have already piloted, to have
15 already tested it, and none of that was in place.

DR MAKGABO JOHANNA MANAMELA: Yes Counsel

ADV ADILA HASSIM: The concerns that were raised by the clinicians were not a concern that could be addressed in a matter of months.

DR MAKGABO JOHANNA MANAMELA: Yes Counsel, you are right to say it
20 doesn't make sense, but it still doesn't make sense if the very same people who raised concern – they are now part of the team and they are not advising – so, it

does also not making sense of what they said at the beginning – now they are part of the team ...

ADV ADILA HASSIM: Okay, with the regard to the clinicians, that is another point – I am actually asking you to speak about your own duties – that was your first warning. The second warning was in June 2015 and if you can look at File 1, page 383.

DR MAKGABO JOHANNA MANAMELA: Page 383?

ADV ADILA HASSIM: 383 – have you found it?

DR MAKGABO JOHANNA MANAMELA: Yes, I did Counsel.

10 **ADV ADILA HASSIM:** It is a letter from the Society of South African Psychiatrists – do you see that?

DR MAKGABO JOHANNA MANAMELA: Yes, I see the letter.

ADV ADILA HASSIM: ...and it is June 2015 – are you familiar with this letter?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel, I am.

15 **ADV ADILA HASSIM:** It is a letter from the Society of South African Psychiatrists – a separate group of psychiatrists that is from the earlier letter, who raised their concerns, they detail their concerns in the letter – you’ve seen it already and they conclude by saying: *we urge the MEC for health and the Gauteng department of health to reconsider the decision to cut long-term care* – do you see that?

20 **DR MAKGABO JOHANNA MANAMELA:** Yes Counsel.

ADV ADILA HASSIM: What was your response to them?

DR MAKGABO JOHANNA MANAMELA: Like I was with them, because we were providing the updates to them on month, two to three monthly basis, but we were all waiting for the MEC to call for a meeting. So, I couldn't I couldn't just say I'll terminate the process, we cannot carry on – it was not my call to make. I was with them as well.

ADV ADILA HASSIM: So you were aware of the concerns that was raised and now there had been two letters from experts in the field, warning you, the decision was nevertheless taken – is that so?

10**DR MAKGABO JOHANNA MANAMELA:** The department didn't take decision to me the psychiatrists...

ADV ADILA HASSIM: No, I am talking about the decision to terminate the contract.

DR MAKGABO JOHANNA MANAMELA: It was not yet taken, because the letter was in June ...

15**ADV ADILA HASSIM:** My point is – you received warnings before the decision was taken to terminate the contract – correct?

DR MAKGABO JOHANNA MANAMELA: That's correct.

ADV ADILA HASSIM: The decision was nevertheless taken in September 2015 – correct?

20**DR MAKGABO JOHANNA MANAMELA:** That's correct.

ADV ADILA HASSIM: ...and you supported the decision to terminate the contract?

DR MAKGABO JOHANNA MANAMELA: How do you know this Counsel, that I supported the decision?

ADV ADILA HASSIM: I am putting it to you that you supported the decision.

DR MAKGABO JOHANNA MANAMELA: I think that I've indicated to you that – to this proceedings – that when the decision was taken wherever you find yourself as [inaudible 38:41] – you'll check if it's in line with the provision of the prescripts and the quality of the services and I checked and I have indicated the [inaudible 38:50], the rules and even the axle A(?). So, I was in no position, you can see – it was [inaudible 38:58] to national HOD, my chief director where I...

10 **ADV ADILA HASSIM:** Did you support this decision to terminate the contract? That was my question.

DR MAKGABO JOHANNA MANAMELA: I implemented as they wanted the decision to be implemented.

ADV ADILA HASSIM: Did you implement it even though you didn't support it?

15 **DR MAKGABO JOHANNA MANAMELA:** I can't answer that one.

ADV ADILA HASSIM: Why not?

DR MAKGABO JOHANNA MANAMELA: No, I can't answer it.

ADV ADILA HASSIM: Why can't you answer it?

DR MAKGABO JOHANNA MANAMELA: Because I can't answer it, because it was part, it was within my delegated duty and within my area. It was also within the legal prescripts, so I am unable to tell you my own personal my own personal

thinking on the decision, because I said this morning – if the decision was indicated and I find that it is not in line with the regulation and ...

ADV ADILA HASSIM: Do you think it was in line with the constitution, if you said already that you were concerned about the devastating impact?

5**DR. MAKGABO JOHANNA MANAMELA:** Yes, but nobody, nobody in the devastating impact was indicating or was foreseeing that the patient will lose their life like it has. So we were all the team trying to work very hard to say let's make sure, from my department – because we discussed it also in my own area. Let's make sure that these people what they are saying we understand but as this is
10given what grounds do we have to say that we are not going to let it carry on. Lets'...

ADV ADILA HASSIM: The grounds you have at least for now, is first of all our own experience, your own training as a psychiatric nurse. You know about mental health care, you know about how to – the concerns that mental health care users would
15face, the challenges that they would face as you say. You are aware that you may have a devastating impact, you are aware that you have a constitutional duty to protect their rights. So those – on the basis of those concerns and the experts that has advised you. Did you support the decision to terminate the contract?

DR. MAKGABO JOHANNA MANAMELA: So, so because like I said, yeah I said it
20was a legitimate - it was a legitimate instruction and that is why from my unit and from my team the psychiatrists we agreed - we said that we are going to work hard

and try our best as much to ensure that they are no devastation except that Sasop didn't come and agreed. But our initials came and become apart of the team....

ADV ADILA HASSIM: So you supported it... We can leave it there, so-so is fine. You see because after the decision was taken and despite those initial warnings the alarm continued to sound. So and let me show you how in the same file that is in front of you that file 1 if you can turn to page 169... Do you see it?

DR. MAKGABO JOHANNA MANAMELA: Yes I see it.

ADV ADILA HASSIM: Page 169, it is a letter from the South African depression and anxiety group.

10**DR. MAKGABO JOHANNA MANAMELA:** Ok.

ADV ADILA HASSIM: And it is dated 26 November 2015. And it is addressed to the former MEC Mahlangu, to you yourself Doctor Manamela and to Mr. Makuatcha, do you see that?

DR. MAKGABO JOHANNA MANAMELA: That is correct.

15**ADV ADILA HASSIM:** Are you familiar with this letter?

DR. MAKGABO JOHANNA MANAMELA: That is correct.

ADV ADILA HASSIM: And if you turn over the page, at paragraph 8 Sadock said “*DR. Manamela stated that a review had been conducted in which users was identified and whether they have ID's established, NGO's was also identified.*” He
20stated meaning she state that ‘*that the levels of function were being assessed and*

reiterated that users would go to families and NGO's or to hospital." Did that happen did that take place?

DR. MAKGABO JOHANNA MANAMELA: Yes, users went to families some to the hospital and some to the NGO's.

5**ADV ADILA HASSIM:** Where they assessed, where there patient assessments?

DR. MAKGABO JOHANNA MANAMELA: Yes, the patients were assessed.

ADV ADILA HASSIM: And the NGO's too?

DR. MAKGABO JOHANNA MANAMELA: Yes, the NGO was assessed.

ADV ADILA HASSIM: And they was being assessed as being a fit able purpose?

10**DR. MAKGABO JOHANNA MANAMELA:** Yes, the report that was sent to me were saying that they are fit for purpose.

ADV ADILA HASSIM: And at paragraph 10 it says "*Doctor Manamela stated that families would be supported and the proper project plan would be compiled together with a communication strategy.*" Is that true?

15**DR. MAKGABO JOHANNA MANAMELA:** That is true council.

ADV ADILA HASSIM: Are you saying that the families were supported?

DR. MAKGABO JOHANNA MANAMELA: Yes. I will say the families were supported although not all of them. Because I've indicated Yesterday that when we started 770 they didn't have family contact, and by January/March that 2015 – we
20commissioned the help advance institute to look at the services at Life...

ADV ADILA HASSIM: Ok. We only...

DR. MAKGABO JOHANNA MANAMELA: 50% of the patients...

ADV ADILA HASSIM: We can come down to that, but it is not the question for the moment.

5**DR. MAKGABO JOHANNA MANAMELA:** Those families that we knew about were insured that they will be supported, what will be a question is that will they agree, will they become satisfied with the support that we are trying to offer.

ADV ADILA HASSIM: Ok. Let's – I'll return to that, I'll make a note and I'll ask you that question. I just want to deal with this, for now, this letter. In paragraph 11 is a
10very important paragraph, it has a number of questions that were addressed to you. For example has the process of assessment and discharge commence, if so how many mental health care users in each facility has been assessed, What is the assessment so on and so on. It goes on and on, have the NGO's been identified, which NGO's has been identified, what is the break down of beds. It goes on and on
15and on, do you see that?

DR. MAKGABO JOHANNA MANAMELA: Yes, council I see it.

ADV ADILA HASSIM: It goes on for pages up until page 175. What was your response to them?

DR. MAKGABO JOHANNA MANAMELA: My response to this was that we will
20work together as the stakeholder which are interested in mental health care users. They have been working together with Sadock and South African federation. So my

understanding was that these are relevant questions that they are asking, who will continuously work together with them and ensure that we deal with the areas of challenges....

ARBITRATOR JUSTICE MOSENEKE: No, what did you do once you received the letter?

DR. MAKGABO JOHANNA MANAMELA: The letter or...

ARBITRATOR JUSTICE MOSENEKE: Did you write back?

DR. MAKGABO JOHANNA MANAMELA: The letter was directed to the MEC...

ADV ADILA HASSIM: And to you.

10**DR. MAKGABO JOHANNA MANAMELA:** And to me but the MEC is the first person because I had a meeting...

ARBITRATOR JUSTICE MOSENEKE: No, it's a short question we must save time, we are spending many hours with you telling us things that we haven't asked you. The que - did you write back? The answer is no or yes and then we will ask you 15another question. So we need to save time so that we can make progress.

DR. MAKGABO JOHANNA MANAMELA: Justice to save time and I agree with you. But I have to qualify because I had a meeting wit Sadock, then they wrote a letter. I knew that even if I didn't write back to them I'm meeting with them in a meeting. So again I knew that the decision they all knew Sadock the decision was 20not made by me. Then in the following meeting, we were going to take them through what we have done.

ADV ADILA HASSIM: Ok. So are you saying you provided all of that information to them? All of these detailed questions that they are asking did you provide answers to them?

DR. MAKGABO JOHANNA MANAMELA: I'm not quite sure if I did all of them, but some of the information we did provide to them, when they were still coming to the meeting with us.

ADV ADILA HASSIM: Why did you not answer the questions fully? Why did you only answer some questions and only when they were in a meeting rather than responding in writing, with an answer to those questions?

10**DR. MAKGABO JOHANNA MANAMELA:** I can't remember everything now because it was long ago, but if I go to my office we can check, maybe we will find that all the answers were - the questions were answered in those meetings. But because the letter was written to the MEC, at the end of the day Sadock didn't attend meetings with us only. We started to attend meetings chaired by the HOD
15and that to me was saying another response from the department to actually engage Sadock in this process.

ADV ADILA HASSIM: I'll put it to you in a moment that you didn't respond. The next warning came now no longer from the families associations and from Sadock and Sasop and so on. It came now from the legal representatives in the same file, if
20you can turn to page 182. Do you have it?

DR. MAKGABO JOHANNA MANAMELA: I think I have it.

ADV ADILA HASSIM: 182 it is a letter from section 27. Do you see that?

DR. MAKGABO JOHANNA MANAMELA: I see it.

ADV ADILA HASSIM: And it is addressed to you as well as the former MEC, Dr. Selebano, MR. Kenoshi and MR Mkhatswa. 9 December – this is following earlier correspondence which they sat out in this letter and I'm not going to go through it in detail. Are you familiar with this letter?

DR. MAKGABO JOHANNA MANAMELA: Yes council.

ADV ADILA HASSIM: In summary they say the department – they record the departments contradictory engagements, contradictory minutes and then in paragraph 13 they say “ *It is also still not clear to which public healthcare facilities and NGO’s users will be transferred whether these facilities has been consulted, whether they can accommodate these users and what services the users will receive.*” Do you see that, that is paragraph 13? And in paragraph 14 they say “ *We remained concerned that these discharges are in breach of the users rights, including to the healthcare services as guaranteed in section 27 of the constitution*”. At the end of the letter they make a proposal that [inaudible 51:19] together with the department jointly approaches the court for the appointment of the curator at Lightem to protect the rights of the users. What was your response to this letter?

DR. MAKGABO JOHANNA MANAMELA: Again this letter was not in my capability of function, because it is addressed to the MEC and the HOD.

ADV ADILA HASSIM: And as to you?

DR. MAKGABO JOHANNA MANAMELA: Yes.

ADV ADILA HASSIM: So what did you do, did you discuss it with your superiors, did you say there is a concern here the rights of users are in fact important?

DR. MAKGABO JOHANNA MANAMELA: The letter was also emailed to the leadership that – and if you have seen this letter and they would have to take a decision whether they will call a meeting like I mentioned. From that time the meetings that we have to have with Sadock were now shifted to be checked by the HOD, so it was like the HOD meeting.

ADV ADILA HASSIM: So he didn't have any concern with this meeting?

DR. MAKGABO JOHANNA MANAMELA: No I didn't say I didn't have any concern.

ADV ADILA HASSIM: What was your concern?

DR. MAKGABO JOHANNA MANAMELA: My concern I'm saying if the leadership were addressing the issue, then I was part of them I would go as well with ...

ADV ADILA HASSIM: You were satisfied with the way in which this was handled, were you?

DR. MAKGABO JOHANNA MANAMELA: The leadership managed the Sadock....

ARBITRATOR JUSTICE MOSENEKE: Who are the leadership, I want names of people please?

DR. MAKGABO JOHANNA MANAMELA: The political head, the former political head.

ARBITRATOR JUSTICE MOSENEKE: I want them on record ma'am we are building a record.

DR. MAKGABO JOHANNA MANAMELA: Ja, I must mention their names?

ARBITRATOR JUSTICE MOSENEKE: Yes.

5**DR. MAKGABO JOHANNA MANAMELA:** Ok.

ARBITRATOR JUSTICE MOSENEKE: We are in a formal hearing and I want to keep the recording going.

DR. MAKGABO JOHANNA MANAMELA: You know I was saying that because the letter is explanatory, Justice it is saying to the MEC Miss Mahlangu the former
10MEC Mahlangu, Dr. Silibano and they also want me to know and MR Matshihole and DR. Morgan Mkhathshwa from Life Esidimeni. So when this letter was written to the former MEC and the HOD according to the high rank of the department it was not me to say MEC we are stepping in this letter is saying that. As a...

ADV ADILA HASSIM: I understand that but you couldn't have give her an
15instruction but did you say that this is a concern, we need to take it seriously?

DR. MAKGABO JOHANNA MANAMELA: Yes we, I forwarded as well to say that this is a concern from Sadock it needs to be taken seriously. And then for them to call the Sadock to the meeting and take them out of the meeting that we were chairing, it shows that they were looking at this as a very critical issue that needs to
20be solved do that we can continue working together.

ADV ADILA HASSIM: Ok and that was on the 9th of December 2015, if you turn over the page to 189, page 189 of the same file. That is now your lawyers in response, we have no record from you or anyone else in the department responding in writing to say we are concerned and maybe it is a good idea lets join clear approach in court for a appointment. Instead what happens is this letter arrives on page 189 date 14th of December 2015, do you see it?

DR. MAKGABO JOHANNA MANAMELA: Yes, I see it council.

ADV ADILA HASSIM: And can you confirm that it is the letter from your lawyers saying that we represent the department of health, MEC, can you see that?

DR. MAKGABO JOHANNA MANAMELA: I can see it, that is correct.

ADV ADILA HASSIM: Dr. Barny Selibano and DR. Magabo Manamela, is that so?

DR. MAKGABO JOHANNA MANAMELA: Yes.

ADV ADILA HASSIM: You were represented by these attorneys?

15**DR. MAKGABO JOHANNA MANAMELA:** Yes.

ADV ADILA HASSIM: So they were acting on your instructions?

DR. MAKGABO JOHANNA MANAMELA: They were acting on the departmental instruction.

ADV ADILA HASSIM: So you are one of the clients, you are familiar with this letter these was your lawyers as officials within the department?

20

DR. MAKGABO JOHANNA MANAMELA: Yes, they were the departmental lawyers.

ADV ADILA HASSIM: Oh they were the department lawyers, I see.

DR. MAKGABO JOHANNA MANAMELA: Yes, and I was still appointed by the department.

ADV ADILA HASSIM: And in paragraph 5 in the letter they say “*Our clients have taken all reasonable steps. And in keeping the various legislated prescripts of the act to effectively provide both for the discharge and the transfer of the users. Any allegation to the contrary is either self-serving or disingenuous. Our clients has consulted all of the health service to whom they have been discharged or transferred to*”. Do you see that?

DR. MAKGABO JOHANNA MANAMELA: Yes, council.

ADV ADILA HASSIM: Did you associate yourself with those comments?

DR. MAKGABO JOHANNA MANAMELA: We were busy with this process so I saw it and I realised that this is a true reflection of what was happening at that time.

ADV ADILA HASSIM: I don't understand. Ok, so let me break it down it says “*Our clients have consulted all the health service to which the users have been sent*” Is that correct, had you consulted with all of the NGO's, with all of the hospitals?

DR. MAKGABO JOHANNA MANAMELA: Yes, at that time we had already consulted with the NGO's including the same Sadock and...

ADV ADILA HASSIM: I'm not talking about Sadock, I'm talking about the NGO's to whom you are sending mental health care users.

DR. MAKGABO JOHANNA MANAMELA: Yes, we have already started it around early October, we already started with the NGO. We continue with the hospitals.

5**ADV ADILA HASSIM:** And you were satisfied that the projects should continue?

DR. MAKGABO JOHANNA MANAMELA: We worked on the process, it was the work on the process.

ADV ADILA HASSIM: You didn't think that it was a good idea to appoint a curator a independent person to see to the rights of the mental health care users?

10**DR. MAKGABO JOHANNA MANAMELA:** I will still take you to the high rank where I belonged, whether I say that or I say nothing I was at the lowest high rank.

ADV ADILA HASSIM: No, I'm not asking what you did, I'm asking whether you felt that. Did you agree – you see the important thing about this, you see the lawyers wrote to you. And they were saying do what you need to do we are just worried
15about the mental health care users. They didn't say stop, don't terminate, they said can we as a start just have a curator appointed. I'm asking whether you agreed on that approach or not?

DR. MAKGABO JOHANNA MANAMELA: I'm not in a position to answer that one.

ADV ADILA HASSIM: Why not?

20**DR. MAKGABO JOHANNA MANAMELA:** I was not taking decisions.

ADV ADILA HASSIM: I'm not asking whether you took a decision, I'm asking whether you had – whether you were sympathetic to that approach to protect the rights of mental health care users.

DR. MAKGABO JOHANNA MANAMELA: Protecting the rights of the mental health care users it has been my priority from the lowest training in mental health.

ADV ADILA HASSIM: So why did you defend this in the litigation and said that should not happen?

DR. MAKGABO JOHANNA MANAMELA: A decision was taken and the notice was taken, what I could do...

10 **ADV ADILA HASSIM:** Did you not agree with this approach then, to defend this litigation?

DR. MAKGABO JOHANNA MANAMELA: I cannot answer that one.

ADV ADILA HASSIM: I'm not asking if you made the decision, I'm just asking did you go along with it and not say anything or did you raise a concern?

15 **DR. MAKGABO JOHANNA MANAMELA:** I cannot remember what I said but what I remember is that the project or the termination was not stopped. That is what I can remember but the...

ARBITRATOR JUSTICE MOSENEKE: Who said this termination will not be stopped, who in your leadership said that?

DR. MAKGABO JOHANNA MANAMELA: I'm saying Justice, I didn't - I didn't hear anybody saying it must be stopped, I'm not saying somebody must stop it can't stop.

ARBITRATOR JUSTICE MOSENEKE: Ok. But who gave the orders that the termination should go ahead? We know who signed the letters Dr. Silibano.

DR. MAKGABO JOHANNA MANAMELA: In the meeting where we were that was attend by the MEC, it was clear that the termination goes on.

ARBITRATOR JUSTICE MOSENEKE: And Dr. Silibano supported that?

DR. MAKGABO JOHANNA MANAMELA: He was also in the meeting.

10 **ARBITRATOR JUSTICE MOSENEKE:** Did he support the decision?

DR. MAKGABO JOHANNA MANAMELA: He is the HOD I am two levels lower than him, he can't tell me if he doesn't....

ARBITRATOR JUSTICE MOSENEKE: No, did he support the decision?

DR. MAKGABO JOHANNA MANAMELA: He will answer for himself chief Justice,
15 I can't answer for him.

ARBITRATOR JUSTICE MOSENEKE: Did you support the decision?

DR. MAKGABO JOHANNA MANAMELA: For the decision for termination?

ARBITRATOR JUSTICE MOSENEKE: Yes.

DR. MAKGABO JOHANNA MANAMELA: You remember that I indicated that I
20 had to implement according to the ...

ARBITRATOR JUSTICE MOSENEKE: No did you support the decision to terminate? The answer could be no or the answer could be yes.

DR. MAKGABO JOHANNA MANAMELA: Looking at what we have done, if I didn't support I will write to the MEC and say according to the legal prescription of my work and my responsibility I cannot carry on. I indicated that early in the morning to say I had to take the instruction based on the legality of this instruction.

ARBITRATOR JUSTICE MOSENEKE: Did you support the decision?

DR. MAKGABO JOHANNA MANAMELA: It is clear Justice, because if we – I carried on and not writing a letter to the MEC it means that I supported the decision we carried on.

ADV ADILA HASSIM: Thanks, if we get more answers like that quickly then we can finish quickly as well DR. MAKGABO JOHANNA MANAMELA. So December 2015 all of these warnings you decided to fight it, you continued with the project and you continued to implement. And you say that you were satisfied with the NGO's, you were satisfied and you licensed the NGO's?

DR. MAKGABO JOHANNA MANAMELA: I was satisfied with the report that was delivered to my office by the district NGO manager and I signed them.

ADV ADILA HASSIM: Are you aware of your duty when it comes to signing licenses?

DR. MAKGABO JOHANNA MANAMELA: I am aware of my duties.

ADV ADILA HASSIM: Are you aware that you have the duty to apply your own mind?

DR. MAKGABO JOHANNA MANAMELA: Correct.

ADV ADILA HASSIM: So why did you just accept the say so of others?

5**DR. MAKGABO JOHANNA MANAMELA:** I did not just accept the say-so of others, there were NGO – if you get the document from me you will see the one that we have the ombudsman there were NGO's that were allocated by the district which we didn't even place the patient. But based on the report that I was given and the license that was drafted I support it and signed. But there are other NGO's that we
10didn't place patients because of their [inaudible 01:03:28].

ADV ADILA HASSIM: But you took the word of whom, who came and brought a report to you and said this NGO is good?

DR. MAKGABO JOHANNA MANAMELA: I will repeat it in my director rate there is an NGO manager who will do – who will receive the report from the district and
15when she received the report, she will draft the license on what the district say we have and then I agreed with her. Because that was not the only license that we gave, we have been doing it over for almost – over 5 years with the other existing NGO's. So they would evaluate, write the report, send it and then prepare license and then its approved.

20**ADV ADILA HASSIM:** But wouldn't you agree that once you have licensed an NGO it is possible that the NGO will deteriorate in quality?

DR. MAKGABO JOHANNA MANAMELA: We agree even the hospital will deteriorate in quality.

ADV ADILA HASSIM: So the fact that it might have been licensed before doesn't mean that it's still good?

5**DR. MAKGABO JOHANNA MANAMELA:** That's why during the process of their curation we revoked the license, we have been doing it before Life Esidimeni termination. We take away the license, take away the patient and they cannot manage our patient anymore.

ADV ADILA HASSIM: So let's take an example Shama house, for example, you 10approved the license for Shama house is that correct?

DR. MAKGABO JOHANNA MANAMELA: It's correct.

ADV ADILA HASSIM: Ad you were not familiar with the conditions at Shama house?

DR. MAKGABO JOHANNA MANAMELA: We were familiar with the condition 15after we have placed the patient because...

ADV ADILA HASSIM: Only after, but was it not your duty...

DR. MAKGABO JOHANNA MANAMELA: Before.

ADV ADILA HASSIM: Sorry did you say before?

DR. MAKGABO JOHANNA MANAMELA: Before the team went to Shama house, 20I will indicate it again and they found that Shama has got 60 patient and they are not even licensed and they still get these patients from our hospital. Then we...

ADV ADILA HASSIM: When was that?

DR. MAKGABO JOHANNA MANAMELA: That was 2015 early 2015.

ADV ADILA HASSIM: So why were patients then sent to Shama house?

DR. MAKGABO JOHANNA MANAMELA: The patients sent to Shama house after they started renovating for the 50 patients from Life Esidimeni. The one that I was talking about is their own patients that they said to us that they got from our hospital Wes Koppies, some they got from the street, they were just doing that as chaired. But during the termination we had to find out why they are operating with our patient without being licensed, then we started working with them to license 50 beds and then we included their 60.

ADV ADILA HASSIM: So when did you do the assessment for the purposes of the transfer of patients from Esidimeni, when did you do that assessment?

DR. MAKGABO JOHANNA MANAMELA: I think the team has been doing the assessment throughout the process, but there was a time when we went with the project manager and the clinician in Tswane to go and asses.

ADV ADILA HASSIM: When was that?

DR. MAKGABO JOHANNA MANAMELA: Around April, because...

ADV ADILA HASSIM: April 2016?

DR. MAKGABO JOHANNA MANAMELA: Yes. I'm not quite sure but about that time April or May, we went there while the team has been working on it.

ADV ADILA HASSIM: Can you turn to file 7, have a look at file 7, because that is the file that has all the licenses and all of the audit reports. You'll see that there are a number of licenses?

DR. MAKGABO JOHANNA MANAMELA: That is correct.

5**ADV ADILA HASSIM:** If you flip page after page after page. Each and every one of them is signed on the 1st of April 2016.

DR. MAKGABO JOHANNA MANAMELA: That is correct.

ADV ADILA HASSIM: Each and every one of them?

DR. MAKGABO JOHANNA MANAMELA: That is correct.

10**ADV ADILA HASSIM:** All of these NGO's were assessed?

DR. MAKGABO JOHANNA MANAMELA: That is correct.

ADV ADILA HASSIM: And you approved them to take patients?

DR. MAKGABO JOHANNA MANAMELA: That is correct.

ADV ADILA HASSIM: All on the same day?

15**DR. MAKGABO JOHANNA MANAMELA:** That is when the procedure needs to be explained to you. It is not all on the same day, I said that yesterday that we work in a financial year. This license is saying to them that they can only mandate the patient from the 1st of April for this financial year. Which will be 2016/2017 March it ends. If we reassess and find that you are not suitable, they are no longer suitable 20or they changed during the process of the year or during the end of the financial

year, we revoke the license. But if they did so, they did well we will not revoke the license. And there will be a full audit before April the following year for 2017.

ADV ADILA HASSIM: Is it normal for you to sign about 27 licenses in one day?

DR. MAKGABO JOHANNA MANAMELA: Yes, it is normal because they report 5 will be – even if they didn't come on the same day we get them. But all of the license will say that you are managing this patient from April to March and that is all.

ADV ADILA HASSIM: So what if you assist them in June, how do you do it then? And if you issue a license in June what do you do then, do you backdate it?

DR. MAKGABO JOHANNA MANAMELA: We all of the time we used to have the 10 license being done before that time, maybe if we assess I'm not quite sure, we can if it is a new NGO maybe or if we are closing another NGO we can do that, but the...

ADV ADILA HASSIM: You can do what?

DR. MAKGABO JOHANNA MANAMELA: We can assess them in June, but the 15 period will be for this financial year. Next financial year you are out or...

ADV ADILA HASSIM: So the license will be dated from April, it will be backdated?

DR. MAKGABO JOHANNA MANAMELA: Yeah I think so, it will be backdated it's true. It will be backdated like why I'm saying that you know the Lynwood one...

ADV ADILA HASSIM: You see the reason why this is important, because this is 20 not just a license - this is not a dog license. This is a license in terms of which you, yourself, you doctor Manamela you signed it. And you are certifying by virtue of your

signature that this facility is good and it's capable of providing health services to mental health care users.

DR. MAKGABO JOHANNA MANAMELA: That is correct.

ADV ADILA HASSIM: And you certified in April 2016 that they all met that criteria?

5**DR. MAKGABO JOHANNA MANAMELA:** That is what I said. At that time...

ADV ADILA HASSIM: So in Shama house, if you look at Shama house for a example as I were referring you the audit report for Shama house is on page 2478 of file 7, 2478. And you found it and you see the date of inspection?

DR. MAKGABO JOHANNA MANAMELA: Yes council.

10**ADV ADILA HASSIM:** 21st of July 2016.

DR. MAKGABO JOHANNA MANAMELA: Yes.

ADV ADILA HASSIM: Now unless you want me to point out specifically all of the pages of which I am about to refer to I'd rather just tell you for the sake of time what some of the findings were in this assessment. And some of the finding was the
15following; the room are very untidy, they kept pet food in the rooms, the linen seemed dirty, gate is not locked, no security, [inaudible 1:11:56] with food. When it comes to nutrition they say that they follow the same routine daily, they make food according to the donations received, no money available, no emergency oxygen, suction or first aid. The patients which are referred to here as clients, the clients
20keeps medicine with them in labelled packets, then there is a comment that says "*Need to visit Shama often to upgrade the whole system*". It says that there I no

nursing staff, no training, no stimulation programs, clients do all of the work for kitchen cleaning and washing.

ARBITRATOR JUSTICE MOSENEKE: Clients meaning patients?

ADV ADILA HASSIM: Patients, but the word clients is referred to here. They are not receiving subsidy all of that is in this audit report, it is dated 21st of July 2016. You are saying between April 2016 and July 2016...

ARBITRATOR JUSTICE MOSENEKE: Well, we have to talk about issues of security and hope this was a single service shower, It on four o'clock every day, but it looks like its real. DR. Manamela maybe the Gods are angry, I think it might be sorry, it might be a question of it might be risky to continue. It might be difficult or risky to continue in the line of lightning and the strength of the rain and the time is four o'clock. So I say to Dr. Manamela I think the Gods are angry.

DR. MAKGABO JOHANNA MANAMELA: I will say God is happy.

ARBITRATOR JUSTICE MOSENEKE: There are obvious risk of lightning, the place is not properly earthed and I think that we are going to adjourn now at 4 pm and we will resume tomorrow at 9:30. You are warned to appear here tomorrow at 9:30 for further testimony Dr. Manamela.

DR. MAKGABO JOHANNA MANAMELA: Ja. It's fine I wanted to ask [inaudible 1:15:24] I hope that she is not going to forget it tomorrow.

ARBITRATOR JUSTICE MOSENEKE: No, the question will be resumed tomorrow. [foreign 01:15:44] we are adjourned until tomorrow 9:30.