

Report of Proceedings of Life Esidimeni Arbitration at Emoyeni
Conference Center.

7h56

16 10 2017 SESSION 1 DAY 6

Arbitrator (ARBITRATOR JUSTICE MOSENEKE): Counsel?

ADV. TEBOGO HUTAMO: Morning Justice Moseneke.

ARBITRATOR JUSTICE MOSENEKE: Yes good morning.

ADV. TEBOGO HUTAMO: Yes.

ARBITRATOR JUSTICE MOSENEKE: (0:30 African language)

ADV. TEBOGO HUTAMO: Justice Moseneke, the next witness we have managed to secure, who has also been requested by one of the parties that we need to avail somebody else from CCRC, that is Cullinan in Pretoria, and there is Daphne Ndhlovu who is here to speak on the matters which were referred to at Cullinan Care Center.

ARBITRATOR JUSTICE MOSENEKE: Very well, you may proceed.

ADV. TEBOGO HUTAMO: Can I request that she be, the oath be administered for her as well?

ARBITRATOR JUSTICE MOSENEKE: Yes. Good Morning, (1:21 African language)
what language are you going to use today?

MAHLODI DAPHNEY NDLOVU English and Sepedi.

ARBITRATOR JUSTICE MOSENEKE: English, very well. I'd like you to put your full names on record please.

MAHLODI DAPHNEY NDLOVU My name is Mahlodi Daphney Ndlovu.

ARBITRATOR JUSTICE MOSENEKE: Mahlodi Daphney Ndlovu. You are about to take the oath and you have an option to take an affirmation, conventional oath ends up with "so help me God" and an affirmation does not. Which one do you choose to use?

MAHLODI DAPHNEY NDLOVU Conventional oath.

ARBITRATOR JUSTICE MOSENEKE: Very well. Do you swear that the evidence you are about, do you swear that the evidence 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".

MAHLODI DAPHNEY NDLOVU I swear that the evidence that I'm going to give today is the truth and the only truth. So help me God.

ARBITRATOR JUSTICE MOSENEKE: Thank you. You may precede Counsel.

ADV. TEBOGO HUTAMO: Thank you justice Moseneke. Ms Ndlovu where are you currently employed?

MAHLODI DAPHNEY NDLOVU I'm currently employed under the Department of Health at Cullinan Care and Rehabilitation Center. As a Social Worker.

ADV. TEBOGO HUTAMO: As a social worker?

MAHLODI DAPHNEY NDLOVU: yes.

ADV. TEBOGO HUTAMO: How long have you been employed there?

MAHLODI DAPHNEY NDLOVU I started working there on the 1st December 2013.

ADV. TEBOGO HUTAMO: 2013?

MAHLODI DAPHNEY NDLOVU Yes.

ADV. TEBOGO HUTAMO: Okay. As a Social Worker what do your duties entails?

MAHLODI DAPHNEY NDLOVU The duties that entails is the admission of the patients from, to the institution from outside, whether is from other institutions and some are from home. And also, to facilitate the process of discharge of the patients from the institution, home or to other facilities.

ADV. TEBOGO HUTAMO: Yes. Without any further waste of time, it is common cause that your center had received certain patients from Life Esidimeni centers during the course of 2016 and 2017, is that so?

MAHLODI DAPHNEY NDLOVU Yes.

ADV. TEBOGO HUTAMO: And there is a document which has been handed in, marked as exhibit C, it's a spreadsheet, and is, the one referred to, that is the one dated 19 April 2017. It's a report for the, okay, it's been referred to, Justice Moseneke as annexure ELAH9, CCRC report around transferring of patients from early.

ARBITRATOR JUSTICE MOSENEKE: Yes.

ADV. TEBOGO HUTAMO: Are you there?

MAHLODI DAPHNEY NDLOVU Yes, counsel.

ADV. TEBOGO HUTAMO: What is that report?

MAHLODI DAPHNEY NDLOVU The whole report entails the movement of patients from Life Esidimeni Randfontein and Wayverley to CCRC, by the multi-disciplinary team of CCRC. And it also entails the death statistics of CCRC, Anchor and Siyabadinga, as Anchor and Siyabadinga was housed at Cullinan Care and Rehabilitation Center.

ADV. TEBOGO HUTAMO: And whose report is that? Is that your facility's report?

MAHLODI DAPHNEY NDLOVU Yes.

ADV. TEBOGO HUTAMO: Okay. So are you comfortable in speaking on it?

MAHLODI DAPHNEY NDLOVU Yes.

ADV. TEBOGO HUTAMO: Then I see that the date is 19 April 2017, is, is that the date it was prepared or is that the date it was presented?

MAHLODI DAPHNEY NDLOVU The 19th of April, it was the day that this report was written.

ADV. TEBOGO HUTAMO: It was written?

MAHLODI DAPHNEY NDLOVU Yes.

ADV. TEBOGO HUTAMO: And let's go to the second page there.

ARBITRATOR JUSTICE MOSENEKE: Wait, there's a bit of confusion here, ELAH9 is something else, is it? Do you have the correct...? We have to get those exhibition numbers correct if people are going to read the, what is it, is it ELH eight or nine?

ADV. TEBOGO HUTAMO: On the, that is on the, on this list of application exhibits it's...

ARBITRATOR JUSTICE MOSENEKE: I'm told it is nine. Is it a schedule? Is it a...?

ADV. TEBOGO HUTAMO: No, no it's not a schedule, a report. It's a report.

ARBITRATOR JUSTICE MOSENEKE: Just make sure these things, documents are properly numbered, please, so that we can have, always refer to the same thing at the same time.

ADV. TEBOGO HUTAMO: The schedule is ELAH11.

ARBITRATOR JUSTICE MOSENEKE: Yes, ELAH9, would be the report to Dr Ramokgopa, and the subject will be Cullinan Care and Rehabilitation Center., is that the one?

ADV. TEBOGO HUTAMO: That's the one.

ARBITRATOR JUSTICE MOSENEKE: Is that the one? Very well, thank you, proceed.

ADV. TEBOGO HUTAMO: Let's go the second page of that document.

ARBITRATOR JUSTICE MOSENEKE: Well let's get it clarified, who prepared the document?

MAHLODI DAPHNEY NDLOVU It was myself and the nursing department deputy manager.

ARBITRATOR JUSTICE MOSENEKE: When was it compiled?

MAHLODI DAPHNEY NDLOVU This report was written on the 19th because Dr Ramokgopa has requested the report, but the spreadsheet was compiled like each and every time when we came back from Life Esidimeni to collect the patients.

ARBITRATOR JUSTICE MOSENEKE: By 19th April you mean 2017?

MAHLODI DAPHNEY NDLOVU No. The 19 April 2017, that's where this report was compiled to Dr Ramokgopa, but the spreadsheet...

ADV. TEBOGO HUTAMO: That is ELHA11, the spreadsheet.

ARBITRATOR JUSTICE MOSENEKE: Yes...

MAHLODI DAPHNEY NDLOVU That spreadsheet was compiled according to the dates that the patients were fetched from Life Esidimeni.

ARBITRATOR JUSTICE MOSENEKE: I follow... okay, precede council.

ADV. TEBOGO HUTAMO: Yes. And then we are on the second page there.

MAHLODI DAPHNEY NDLOVU Yes council?

ADV. TEBOGO HUTAMO: I see there's a reference to patients admitted on minimum two to six months and so on, and underneath there is legal complaints for admission and so on, then, under which there is an admission criteria at CCRC. Can you take us through that admission criteria at CCRC?

MAHLODI DAPHNEY NDLOVU Okay. According to the report, admission criteria of Cullinan Care and Rehabilitation Center. we admit patient from 3 years to 21. Then the patient's diagnosis has to be severe and profound intellectual impairment. Our length of

stay in the institution, it's a minimum stay of 2 to 6 months; medium stay of 6 to 12 months; and chronic is 12 months to 3 years.

ADV. TEBOGO HUTAMO: And in these types of patients you received from Life Esidimeni, to which category do they fit?

MAHLODI DAPHNEY NDLOVU Some of them they were falling under our criteria, but some not.

ADV. TEBOGO HUTAMO: Some not?

MAHLODI DAPHNEY NDLOVU Yes.

ADV. TEBOGO HUTAMO: And what extend did they not fall within your criteria?

MAHLODI DAPHNEY NDLOVU That one Counsel, I'm unable to answer it cause according to the initial agreement from the institution, CEO, Ms Nyatlo, informed us there's going to be a multi-disciplinary team from Cullinan to Life Esidimeni to go and select the patients according to the criteria of our institution, but that was never happened. I think maybe that's the reason why we did receive the patients that were not falling under our criteria, but maybe this one the CEO of Cullinan will give a better explanation.

ADV. TEBOGO HUTAMO: Okay and to the extent that some of these patients did not...

ARBITRATOR JUSTICE MOSENEKE: Team was meant to do what at Life Esidimeni?

MAHLODI DAPHNEY NDLOVU According to the initial agreement the team was meant to go and select the patients according to CCRC criteria, Cullinan Cay Rehabilitation Center. admission criteria, but that was never happened.

ARBITRATOR JUSTICE MOSENEKE: I see, thank you.

ADV. TEBOGO HUTAMO: And, according to the number of the patients which you have received from Life Esidimeni centers, how many of these patients did not fall within your admission criteria?

MAHLODI DAPHNEY NDLOVU That one counsel, we didn't check, we didn't check,. Maybe nursing department is the one who checked, but I was not aware of how many of the mental healthcare user are not fitting our criteria.

ARBITRATOR JUSTICE MOSENEKE: Yes, and in the, that is under legal compliance for admission, the second sentence there, there is a reference there that this implies that assisted mental healthcare users may be admitted from provincial district or district health facilities are subject to prior permission of a designated official in the Gauteng Department of Health. What does that mean?

MAHLODI DAPHNEY NDLOVU Okay, according to my understanding about this statement, Cullinan is also admitting patients from, patients from hospitals, but when it says the provincial, we're admitting the patients around Gauteng, not outside Gauteng. Our jurisdiction is only Gauteng.

ADV. TEBOGO HUTAMO: Only Gauteng?

MAHLODI DAPHNEY NDLOVU Yes. But with the, with the patients that we have received from Life Esidimeni, some of them are not within our boundary.

ADV. TEBOGO HUTAMO: Yes, then further down that page there's an admission procedure, which goes over to the third page that is, can you take us through what admission procedure you had followed at Cullinan Center. in relation to the admission procedure of these patients from Life Esidimeni Centers.

MAHLODI DAPHNEY NDLOVU Okay. As this criteria stipulates with the admissions of our patients from home and other facilities, but with Life Esidimeni patients, the patients came to the institution or we fetched the patients with a mental healthcare act form eleven, of which is a transfer form that we use under mental healthcare act.

ADV. TEBOGO HUTAMO: Yes, and what are these forms?

MAHLODI DAPHNEY NDLOVU These forms?

ADV. TEBOGO HUTAMO: Yes.

MAHLODI DAPHNEY NDLOVU Okay, mental healthcare act form 4 is the form that is filled in by the family or the person who is applying for a patient in Cullinan care and Rehabilitation Center., Its one form and form 5, there's two of them, the form has to be completed by a doctor or other health practitioner, maybe OT or yes, maybe OT or nursing, yes. And mental healthcare form 4 is the form that we attach, that we use to attach in our forms, it's a recommendation from the head of establishment. And form 11 is a transfer form if a patient is being transferred. But if a patient is from home, we only use form 4, two form 5s, and one form 7, then we submit our forms to mental health review board.

ADV. TEBOGO HUTAMO: And these patients that you took from Life Esidimeni, which category did they fit, were they transferred?

MAHLODI DAPHNEY NDLOVU It was indeed a transfer.

ADV. TEBOGO HUTAMO: It was a transfer?

MAHLODI DAPHNEY NDLOVU Yes.

ADV. TEBOGO HUTAMO: Okay. And did all this forms, were all this forms filled in according to the requirements for their transfer?

MAHLODI DAPHNEY NDLOVU Yes, according to my understanding we didn't experience any patient that doesn't have a form 4 in his or her file Counsel.

ADV. TEBOGO HUTAMO: Okay. And were these patients assisted or did this patients require assisted care treatment in the rehabilitation?

MAHLODI DAPHNEY NDLOVU Which?

ADV. TEBOGO HUTAMO: Or all of them, which you transferred from Life Esidimeni to your center?

MAHLODI DAPHNEY NDLOVU May you please come again.

ADV. TEBOGO HUTAMO: Let me take you to, at the top there, on page 3, the second bullet point, to say: application for assisted care treatment and rehabilitation services may be done by a next of kin, spouse, partner, associate parent or guardian of a mental healthcare user and a healthcare provider. Do you see that?

MAHLODI DAPHNEY NDLOVU Okay, Counsel, as I've already mention that the patients from Life Esidimeni came only with one form of which it's a form 11, a transfer form. None of the above were in our forms, were in our files.

ADV. TEBOGO HUTAMO: Why, why is that so? Is it because they were not required or what?

MAHLODI DAPHNEY NDLOVU It was a transfer, if it is a transfer we only require this, this one's additional information for us, but if we are transferring patients, the only form that we look at is a transfer form, a transfer form of which is form 11.

ADV. TEBOGO HUTAMO: And what do you fill into this transfer form?

MAHLODI DAPHNEY NDLOVU In this transfer form it has the information, the name of the patient, where the patient is coming from and where the patient is going, and underneath there is a signature of head of establishment.

ADV. TEBOGO HUTAMO: That is form LE?

MAHLODI DAPHNEY NDLOVU Yes.

ARBITRATOR JUSTICE MOSENEKE: So with the transfer, excuse me, you don't need to complete from 4, 5 and 7?

MAHLODI DAPHNEY NDLOVU No, with the transfer we don't complete them. If the form, if we take a patient with a form 4 then it means the above forms they've been filled already from where the patient is coming from, it's just an additional information for us.

ARBITRATOR JUSTICE MOSENEKE: Well, did these patients come then with the information required by form 4, for instance under oath by a caregiver or a significant other? Did they have like information of their family or caregiver or significant other? Did they bring along information completed by mental healthcare practitioners? Did they bring to you a form completed by the head of the health establishment, besides form 11?

MAHLODI DAPHNEY NDLOVU Some of the files had this information of which some of them had the information, but in regarding the form 4, some of the information of the families were not indicated.

ARBITRATOR JUSTICE MOSENEKE: Well take it step by step, did they bring along any files or bed letters from their institution from Life Esidimeni?

MAHLODI DAPHNEY NDLOVU We did receive files of the patients Judge.

ARBITRATOR JUSTICE MOSENEKE: And did those files have the information required by forms 4, 5 and 7?

MAHLODI DAPHNEY NDLOVU Some of the files had the information, of which some didn't have the information. I can maybe give an example, in regard to form 4, if a patient maybe was admitted in Charlotte Maxeke, then when the patient goes to, the patient is going to fall under mental healthcare act of, which the patient is maybe going to be transferred to a psych hospital or an institution, there were not information about families, some of them. If the person who is applying for a person, for a person in an institution and doesn't have the information of the family, then that person has to use his/her information to apply for the person for an institution. That is why I'm saying some of them had the information and some didn't have.

ADV. TEBOGO HUTAMO: Okay. Let me refer you to page 4 at the top there, the first sentence. It says: Assisted mental healthcare users will be periodically reviewed in terms of section 30 of the mental healthcare act that is in bracket, six months after commencement of care treatment and rehabilitation of services and every twelve months thereafter. Would this information also be part of the transfer document?

MAHLODI DAPHNEY NDLOVU Yes.

ADV. TEBOGO HUTAMO: Did you get this information as well from, when you transferred them?

MAHLODI DAPHNEY NDLOVU Some files did have the information about when was the last periodical report reviewed, some didn't, did not have.

ADV. TEBOGO HUTAMO: And from, from your knowledge, what is the importance of these periodical reviews of for mental healthcare users, for mental healthcare users?

MAHLODI DAPHNEY NDLOVU Okay. In our institution, after receiving a patient from home or from an institution, after six months the patient has to be reviewed. The multi-disciplinary team has to sit down, the social worker, medical doctor, physiotherapy, occupational therapy and one nursing staff to discuss about the patient. Then there is a certain form that we use to fill in, it's section, mental healthcare act 13A. Then we fill in the form, we submit the form to mental health review board, and mental health review board gives us feedback.

ADV. TEBOGO HUTAMO: And for some of them they did not have that information?

MAHLODI DAPHNEY NDLOVU No.

ADV. TEBOGO HUTAMO: And what is the...

ARBITRATOR JUSTICE MOSENEKE: What does 'some' mean? Is it half and half? Is it a third? Is it, you have to give us an idea, what "some had and others did not" what does that mean?

MAHLODI DAPHNEY NDLOVU I'm trying to say not all of them did have the forms.

ARBITRATOR JUSTICE MOSENEKE: I'm trying to ask you to describe better for us to understand. Let's start off with did the majority have the required information? That is more than half. And I'll ask a few more questions after that.

MAHLODI DAPHNEY NDLOVU That one Judge, if I can answer it I'll be lying.

ARBITRATOR JUSTICE MOSENEKE: No we have long agreed we are not going to lie, right? Right at the beginning of the hearing we agreed to that. But let's get back to your assessment, did half of them have the beautifully set out requirements of

admission in your report or didn't they? Was it a third of them who didn't comply? Half? Three quarters?

MAHLODI DAPHNEY NDLOVU Let me bind myself by saying half because the reason I'm saying half Judge is that, we do have the date of when did we go and fetch the mental healthcare users at Randfontein and Wayverley, and the other patients that were admitted in Cullinan were brought to our institution by Life Esidimeni staff.

ARBITRATOR JUSTICE MOSENEKE: So you from Cullinan went to Wayverley and Randfontein and you physically fetched the patients, in other words moved them from Wayverley to Randfontein to Cullinan?

MAHLODI DAPHNEY NDLOVU: Yes Judge.

ARBITRATOR JUSTICE MOSENEKE: What number of patients was that?

MAHLODI DAPHNEY NDLOVU Plus or minus, plus minus 45 patients were brought to the institution.

ARBITRATOR JUSTICE MOSENEKE: How did you bring them?

MAHLODI DAPHNEY NDLOVU Were brought by Life Esidimeni staff to the institution.

ARBITRATOR JUSTICE MOSENEKE: And how many did you go and fetch, you from Cullinan go and fetch?

MAHLODI DAPHNEY NDLOVU I didn't add the number Judge, but I can just tell you that on the 9th of May 2016 we went to, sorry on the 10th of May 2016 we went to Randfontein. The initial agreement from the CEO and the person who was supposed to give us patients, it was we were going to take 10 patients from Wayverley to the institution, but that one didn't work. When we arrived at Randfontein we were told to take 26, 26 patients. The reason being we came with a bigger transport.

ARBITRATOR JUSTICE MOSENEKE: What kind of transport was it?

MAHLODI DAPHNEY NDLOVU It was a bus, a 27-seater bus.

ARBITRATOR JUSTICE MOSENEKE: And these patients that you moved that day are the ones appearing on that page 4 of your report, are they?

MAHLODI DAPHNEY NDLOVU: Yes Judge.

ARBITRATOR JUSTICE MOSENEKE: Pages are (inaudible 27:03) Council.

MAHLODI DAPHNEY NDLOVU: And again on the 12 of May 2016, we went to Wayverley to fetch 24 males. It's on page 7.

ARBITRATOR JUSTICE MOSENEKE: On page 7, ja, sure, thank you.

ADV. TEBOGO HUTAMO: Thank you Ms Ndlovu.

MAHLODI DAPHNEY NDLOVU: Okay.

ADV. TEBOGO HUTAMO: This review, just to move off this point, this review, periodical review of our patients, would it not require information to assess the level of fitness of the patients for the purpose of deciding whether to transfer or not to transfer?

MAHLODI DAPHNEY NDLOVU This one is the one that we do after admission.

ADV. TEBOGO HUTAMO: After admission?

MAHLODI DAPHNEY NDLOVU Yes. But I can say, with the, during this process of Life Esidimeni, we didn't do any periodicals to the mental health review board.

ADV. TEBOGO HUTAMO: You did not?

MAHLODI DAPHNEY NDLOVU No periodicals were done last year.

ADV. TEBOGO HUTAMO: Why?

MAHLODI DAPHNEY NDLOVU It was hectic, it was very hectic.

ADV. TEBOGO HUTAMO: So...

ARBITRATOR JUSTICE MOSENEKE: What does 'hectic' mean?

MAHLODI DAPHNEY NDLOVU With the fact that, we were going up and down, going to fetch the patients. Discharging some patients to the NGO. Sometimes when you come back to the institution, patients are sick, been taken to the hospital. Someone has to check the file and inform the family. It was indeed very hectic last year. That is why we didn't, we didn't, that one I can acknowledge, we didn't...

ARBITRATOR JUSTICE MOSENEKE): By hectic, you mean you were so busy...

MAHLODI DAPHNEY NDLOVU: Yes, yes.

ARBITRATOR JUSTICE MOSENEKE: Because of the transfers that you could not follow your normal procedures?

MAHLODI DAPHNEY NDLOVU: Yes.

ARBITRATOR JUSTICE MOSENEKE: Now let's check the procedures you did not follow. The transfer, was the transfer accompanied by formal assessment report from a medical practitioner? Or Physicist? Or neurologist? Occupational therapist or social worker?

MAHLODI DAPHNEY NDLOVU: I can only account for a social worker because I said, I am a social worker.

ARBITRATOR JUSTICE MOSENEKE: Did you access each of these patients that came to Cullinan?

MAHLODI DAPHNEY NDLOVU: Not all of them, Judge. But some were being accessed by checking the family, contact details. By calling and informing family that the patients are being admitted in Cullinan. But it was only for those, whom contact details of the family where in the files, or were received.

ARBITRATOR JUSTICE MOSENEKE: The original question was, you said many procedures you normally follow, were not followed, it was hectic. Now when did you identify the procedures you did not follow because it was hectic?

MAHLODI DAPHNEY NDLOVU: The one of submitting periodicals to the mental health review board is the one that we didn't do in the institution.

ARBITRATOR JUSTICE MOSENEKE: Did the files have scripts? In other words, prescriptions for the patients?

MAHLODI DAPHNEY NDLOVU: Yes, Judge. And we were also given seven day's supply medication.

ARBITRATOR JUSTICE MOSENEKE: What was not done? During the time that it was hectic, what is it that you could not accomplish in terms of the prescribed procedure?

MAHLODI DAPHNEY NDLOVU: It's the one for reviewing the periodical

ARBITRATOR JUSTICE MOSENEKE: Any other?

MAHLODI DAPHNEY NDLOVU: Not that I can...

ARBITRATOR JUSTICE MOSENEKE: When you said half of them did not have their records with them, what did you do with them?

MAHLODI DAPHNEY NDLOVU: The ones that did not have records?

ARBITRATOR JUSTICE MOSENEKE: Yes.

MAHLODI DAPHNEY NDLOVU: Which records, Judge? I said in, in, in my department as a social worker, the files of the patients who didn't have the contact details of the family's, that's the, that patients, families were not informed that the patients have been admitted in Cullinan. But for those whom we did receive the contact details, we did inform the families. That the patients are now placed in Cullinan.

ARBITRATOR JUSTICE MOSENEKE: Those that you didn't have family contact details, did you have any other information for those patients?

MAHLODI DAPHNEY NDLOVU: Yes, we did have them physical addresses. Then some didn't have any contact details, any physical address. And we tried our best to trace by using their ID numbers with home affairs. Department of Home Affairs. Some we were successful, some we were not successful just because the id applications were made in Life Esidimeni by the staff members.

ARBITRATOR JUSTICE MOSENEKE: Counsel?

ADV. TEBOGO HUTAMO: Thank you. By this periodic reviews which you say it was hectic and the consequence of which you could not do it, the review requires you to make recommendations regarding the plans for the fellow care and treatment of the patients. Is that so?

MAHLODI DAPHNEY NDLOVU: Sorry, Counsel?

ADV. TEBOGO HUTAMO: The periodic review requires you to draw a report on each of the patients. Is that so, are you still with me?

MAHLODI DAPHNEY NDLOVU: Yes.

ADV. TEBOGO HUTAMO: And in that report you must state the capacity of the mental health care user to express themselves or himself or herself on the need for care treatment and application services. Is that so?

MAHLODI DAPHNEY NDLOVU: Yes Counsel

ADV. TEBOGO HUTAMO: And it also requires you to state whether there are other care treatment and other rehabilitation services that they may require?

MAHLODI DAPHNEY NDLOVU: Yes Counsel.

ADV. TEBOGO HUTAMO: Further that for you to make recommendations regarding the further plans in relation to this care treatment and the application services that they may require in the future. Is that so?

MAHLODI DAPHNEY NDLOVU: Yes Counsel.

ADV. TEBOGO HUTAMO: And this you did not do because it was hectic?

MAHLODI DAPHNEY NDLOVU: Yes Counsel.

ADV. TEBOGO HUTAMO: So, what you had been busy doing is admission, discharge and so on patients of Life Esidimeni, is that so?

MAHLODI DAPHNEY NDLOVU: Yes Counsel.

ADV. TEBOGO HUTAMO: Good. So, lets then get to the, conclude the other part which we already started.

MAHLODI DAPHNEY NDLOVU: Of admissions?

ADV. TEBOGO HUTAMO: Ja. The patients admitted from mental, that is from Life Esidimeni, that is on page 4 in Randfontein in May 2016, that is on 10 May, do you see that?

MAHLODI DAPHNEY NDLOVU: Yes.

ADV. TEBOGO HUTAMO: The list of the number of patients, and it goes up to 26 on page 5.

MAHLODI DAPHNEY NDLOVU: Yes Council.

ADV. TEBOGO HUTAMO: And what, what I want to emphasis, that is what I want you to state for the record is , what do you refer to there. The last paragraph there on page 5 which says that the CO Miss [inaudible 36:14] instructed the team to fetch ten MH, MHCU's, early from Randfontein but on arrival the team met Mr Blomemashile and [inaudible 36:26] from the mental health the directorate from office who wanted to know what mode of transport they had arrived with to fetch the MHCU's? Then they were told it was a 24, 27 seater bus then Miss Dlomena contacted Dr Manamela, informing her that CCRC team should take 27 users instead of the ten. The CO CCRC was also called by her and refused to take more than ten. So your plan was to, to come with ten patients?

MAHLODI DAPHNEY NDLOVU: Yes.

ADV. TEBOGO HUTAMO: And you ended up with coming up with 26?

MAHLODI DAPHNEY NDLOVU: 27, yes, 26, Judge, sorry.

ADV. TEBOGO HUTAMO: On instruction of this Salome, you referred to? And why was your plan to take 10 instead of more than that? Would it be because your capacity allow you to take ten or not?

MAHLODI DAPHNEY NDLOVU: No. Our capacity allowed us to take more.

ADV. TEBOGO HUTAMO: Why, why the ten?

MAHLODI DAPHNEY NDLOVU: Okay the ten, it was for the patients to adjust in the institution, to adapt. Then thereafter we can go and fetch others.

ADV. TEBOGO HUTAMO: Yes.

MAHLODI DAPHNEY NDLOVU: Yes, that was the plan. Just for the patient, the patients to adjust, then the second, the second because we were going twice a week. And then we assess the patients in the institution after taking them from Wayverley, ten of them, it would be enough for us. Then the other day we can go and take ten again.

ADV. TEBOGO HUTAMO: So if you take more than ten like the 26 that you ended up taking, that would not allow you to assist them to adjust to the new environment?

MAHLODI DAPHNEY NDLOVU: 26 it was a large, a big number. 26 it was indeed a big number for us.

ADV. TEBOGO HUTAMO: So, from what you say, so it would be correct that these patients would not have adjusted, maybe some weeks after you took them into your center?

MAHLODI DAPHNEY NDLOVU: That is why I am saying the process from moving the patients, it was very hectic. Cause with the ten, we knew that we were going to follow the right procedure and checking everything of the patients, and later on we can go and take again. And with the thing of space .in the, in the institution just to check, because we didn't know as to whether we were going to get six females and four males, then just to open space in the ward that and put them in the relevant wards. Because we do have um frail ward and the mobile wards and there little ones ward, the Peads-ward.

ADV. TEBOGO HUTAMO: So, from what you say from this move, in that large number of 26 patients at one go, was not at all to the benefit of these patients?

MAHLODI DAPHNEY NDLOVU: Not at all. Not at all.

ADV. TEBOGO HUTAMO: Okay, thank you. Then in the second paragraph, you say the MHCU's came with the patient's files that contained some of the information but lacked medical history. What does that mean? What medical history do you refer to?

MAHLODI DAPHNEY NDLOVU: Where are we Council?

ADV. TEBOGO HUTAMO: On page six.

MAHLODI DAPHNEY NDLOVU: Page six. Which paragraph?

ADV. TEBOGO HUTAMO: The second paragraph on top.

MAHLODI DAPHNEY NDLOVU: Okay. Alright, Council.

ADV. TEBOGO HUTAMO: You said, some of them lacked medical history. Are you there?

MAHLODI DAPHNEY NDLOVU: Yes.

ADV. TEBOGO HUTAMO: What are you referring to by that?

MAHLODI DAPHNEY NDLOVU: The medical history with this one, I think I am not the relevant one, the person to answer. Cause this is a medical, it's something that has something to do with nursing or the doctor. I cannot answer for this one.

ADV. TEBOGO HUTAMO: Who would answer to this?

MAHLODI DAPHNEY NDLOVU: A nursing manager

ADV. TEBOGO HUTAMO: And who is that?

MAHLODI DAPHNEY NDLOVU: Jamie Mackaka.

ADV. TEBOGO HUTAMO: And under that sentence, there's a sentence that says, "some of the patients came with their identity documents too", and which would apply that some did not have identity documents. Is that correct?

MAHLODI DAPHNEY NDLOVU: True that. True Council.

ADV. TEBOGO HUTAMO: And how many of these did not have their identity documents?

MAHLODI DAPHNEY NDLOVU: We, we didn't count, but I can say 70% had ID books.

ARBITRATOR JUSTICE MOSENEKE: I know you say you not competent about medical history records that were lacking, but you wrote this report, isn't it?

MAHLODI DAPHNEY NDLOVU: Yes.

ARBITRATOR JUSTICE MOSENEKE): And, and you looked at these files, didn't you? Though you're a social worker but you looked at the files? Did you?

MAHLODI DAPHNEY NDLOVU: Yes Judge.

ARBITRATOR JUSTICE MOSENEKE: Did they have the medical history reports? I am not asking you to interpret the reports, I just want to know whether there were medical reports in the files?

MAHLODI DAPHNEY NDLOVU: Medical reports of, stipulating of the patients, some did have.

ARBITRATOR JUSTICE MOSENEKE: And others did not have

MAHLODI DAPHNEY NDLOVU: Yes Judge.

ARBITRATOR JUSTICE MOSENEKE: Are you able to give us an estimate of those that had and those that did not?

MAHLODI DAPHNEY NDLOVU: Hence I've already mentioned that some of the patients came into the institution brought by Life Esidimeni staff. I can say, 60% didn't have medical history.

ARBITRATOR JUSTICE MOSENEKE: Counsel?

ADV. TEBOGO HUTAMO: Yes. And in the last sentence there, you make reference to the fact that eight, that is the eight highlighted MHCUs in the list above were subsequently discharged to Anchor NGO on the 23rd of June 2016 as instructed by Dr Manamela. The purpose therefore was to create space for other MHCUs to be sent CRCC's, so she said.

MAHLODI DAPHNEY NDLOVU: Yes Council.

ADV. TEBOGO HUTAMO: So, eight of them were sacrificed to make space for these extra patients.

MAHLODI DAPHNEY NDLOVU: Yes.

ARBITRATOR JUSTICE MOSENEKE: Well whilst we're there. You have again very professionally set out the requirements for a discharge on page 4.

MAHLODI DAPHNEY NDLOVU: Yes Judge.

ARBITRATOR JUSTICE MOSENEKE: Thank you for that. Were these requirements followed when the eight patients were discharged, they were actually transfer, wasn't it? Well, discharged to Anchor NGO?

MAHLODI DAPHNEY NDLOVU: Yes, the patients that, the eight patients that were, we discharge to Anchor NGO. The mental health care form that we used that was form 3. It is our discharge form. Not a transfer but a discharge form.

ARBITRATOR JUSTICE MOSENEKE): Yes, but you see you tell us in your report that all of this you did on the instructions of Dr Manamela.

MAHLODI DAPHNEY NDLOVU: Yes and our CEO.

ARBITRATOR JUSTICE MOSENEKE: And your CEO.

MAHLODI DAPHNEY NDLOVU: Yes.

ARBITRATOR JUSTICE MOSENEKE: Is that the a normal procedure for discharging patients? That they must go away to make room for other patients?

MAHLODI DAPHNEY NDLOVU: I can say it is not the normal way of discharging a patient because if a patient is discharged from the institution, it means the patient can adjust where he is going. So, just because this was, it was like forcefully to create a space for the patients.

ARBITRATOR JUSTICE MOSENEKE: Was it desirable from your experience as a social worker in a mental health care facility? Was it desirable to forcefully transfer patients in order to make space for those coming from Life Esidimeni?

MAHLODI DAPHNEY NDLOVU: With this one, Judge, as a social worker, I was not having, I, it was not something somebody is asking you. It was an instruction that somebody had to follow.

ARBITRATOR JUSTICE MOSENEKE: I understand that and thank you for saying that, but was it desirable to remove this patient forcibly, in your words, in order to make space for others who are to come or do you have to follow this discharge procedures where you make all the assessments that you list in your report before discharge?

MAHLODI DAPHNEY NDLOVU: Can I get the question again?

ARBITRATOR JUSTICE MOSENEKE: I understand you saying it's not me, they forced me. I understand that. I'm not getting you yet, I just want to know the procedurally, is this the correct way of discharging a mentally ill patient?

MAHLODI DAPHNEY NDLOVU: It is not Judge. It was not the correct way of discharging patients, Judge. That one I can acknowledge.

ARBITRATOR JUSTICE MOSENEKE: And you at CCRC at the time, what did you know about Anchor NGO? In other words did you know where your patients were being discharged to?

MAHLODI DAPHNEY NDLOVU: Anchor and Siyabadinga, these two NGO was housed in the premises of Cullinan Care and Rehabilitation Center. And the manager of Anchor was introduced to me on the 23rd of June 2016, that was the day where the patients were supposed to go to be discharged to Anchor. But as a team, as a team of CCRC multi-disciplinary team, we went to the facility to check if whether the facility will be suitable to admit the patients. With bedding, it was a well prepared thing, it was good and with their kitchen, it was also good but the main important thing that I've seen that was not user friendly for the patients, it was the staff. There was no professionalism, there was no social worker, there was no doctor who accessed the patients on arrival from CCRC.

ARBITRATOR JUSTICE MOSENEKE: And the doctor and the professional staff surely were more important than good bedding, isn't it?

MAHLODI DAPHNEY NDLOVU: Yes, Judge.

ARBITRATOR JUSTICE MOSENEKE: Council.

ADV. TEBOGO HUTAMO: Thank you. Despite that you carried the instruction to transfer. To discharge this patients...?

MAHLODI DAPHNEY NDLOVU: The patients, yes there where only caregivers. Caregivers are ones, the only ones who were receiving the patients.

ADV. TEBOGO HUTAMO: And... Did you bring this up to the person who instructed you, specifically Dr Manamela?

MAHLODI DAPHNEY NDLOVU: I was not directly communicating with Dr Manamela. The instructions that we followed was from our CEO, as an instruction from Dr Manamela, I think.

ADV. TEBOGO HUTAMO: Dr Manamela instructed the CEO?

MAHLODI DAPHNEY NDLOVU: Yes.

ADV. TEBOGO HUTAMO: That you must discharge these patients.

MAHLODI DAPHNEY NDLOVU: Yes, as is stipulated in the report.

ADV. TEBOGO HUTAMO: And was your CEO aware of the conditions at Anchor NGO as you state them? That there was not a doctor, a professional nurse, it was just these patients?

MAHLODI DAPHNEY NDLOVU: Everything was communicated with the CEO. Like feedback was given to the CEO.

ARBITRATOR JUSTICE MOSENEKE: What about the families of the patients? Were they informed that these patients will be discharged?

MAHLODI DAPHNEY NDLOVU: The patients that did have the contact details of the families, yes they were indeed informed about the discharge of the patient from CCRC to Anchor.

ARBITRATOR JUSTICE MOSENEKE: And those that you did not have details, were their family's informed?

MAHLODI DAPHNEY NDLOVU: No.

ARBITRATOR JUSTICE MOSENEKE): How did you choose the patients highlighted in the report? The report tells us that the highlighted or patients names that are highlighted, ones that were discharged. And I see, how did you select each of these patients to be the ones who must give way for other patients from Life Esidimeni?

MAHLODI DAPHNEY NDLOVU: The 8 highlighted ones Judge, they are not the only ones who were discharged. We discharged many of them to Anchor, it's not only this eight.

ARBITRATOR JUSTICE MOSENEKE: So you discharged more than eight?

MAHLODI DAPHNEY NDLOVU: Yes.

ARBITRATOR JUSTICE MOSENEKE: Okay. Let's start with the eight, how did you identify them?

MAHLODI DAPHNEY NDLOVU: The patients were being identified according to, we went to the wards and checked the patients who are more fine. Who are, the patients who who are not totally dependent from the staff. The ones that are mobile, maybe it, maybe them that can bath by themselves. The criteria were that was used were targeted on them because they were not fragile.

ARBITRATOR JUSTICE MOSENEKE: So it was not a clinical assessment that led to the selection? It was the team, the multidisciplinary team, looking at them and saying they are not bedridden, they are mobile, they partially self-independent and they the ones to be moved to Anchor.

MAHLODI DAPHNEY NDLOVU: Yes judge.

ADV. TEBOGO HUTAMO: Then on 12 May, you referred to on your report page 6, do you see that? That's the move from Wayverley to your center. There's a number of patients you record from one to fifty four, until page seven.

MAHLODI DAPHNEY NDLOVU: Yes council.

ADV. TEBOGO HUTAMO: Are we correct that you were instructed, you admitted more than you could, at a certain point in time. And you moved about 9 of them, which are highlighted, in order to make space for new entrants. Is that what you did as well there?

MAHLODI DAPHNEY NDLOVU: Definitely counsel

ADV. TEBOGO HUTAMO: And the next move was on 17 May 2016, from Wayverley again, are you there?

MAHLODI DAPHNEY NDLOVU: Yes Council.

ADV. TEBOGO HUTAMO: And what was the process here?

MAHLODI DAPHNEY NDLOVU: It was the same process every time we got there to fetch the patients. The same process on hand.

ADV. TEBOGO HUTAMO: And you also similarly had to make a way for a number of patients specifically for this day when there were four in number. On page 9 at the top.

MAHLODI DAPHNEY NDLOVU: Yes counsel.

ADV. TEBOGO HUTAMO: Similarly you discharged these patients to Anchor house?

MAHLODI DAPHNEY NDLOVU: Yes Counsel.

ADV. TEBOGO HUTAMO: Then the next discharge, the next intake was on the 19 May from Wayverley again, of 19 patients.

MAHLODI DAPHNEY NDLOVU: Yes counsel.

ADV. TEBOGO HUTAMO: For this intake you discharged four patients in order to make space for the new intake.

MAHLODI DAPHNEY NDLOVU: Yes counsel.

ARBITRATOR JUSTICE MOSENEKE): Again, that is for Randfontein. On the 24th of May the same process was followed.

MAHLODI DAPHNEY NDLOVU: Yes counsel.

ARBITRATOR JUSTICE MOSENEKE: In all this instances you used a bus?

MAHLODI DAPHNEY NDLOVU: Yes, a 27 seater bus.

ARBITRATOR JUSTICE MOSENEKE: And in all these instances some records were present and others were not?

MAHLODI DAPHNEY NDLOVU: Yes Judge.

ADV. TEBOGO HUTAMO: And the one of the 24th, I see there's an entry, 26th , at the bottom of page 11, is that from Randfontein as well?

MAHLODI DAPHNEY NDLOVU: Yes, it was 3 females from Randfontein.

ADV. TEBOGO HUTAMO: And you had to make way or discharge 8 patients in order to make space for your new intake?

MAHLODI DAPHNEY NDLOVU: Yes council.

ARBITRATOR JUSTICE MOSENEKE: If you had not discharged some patients to make way for others, would Cullinan have had enough space for all the transferred

patients? In other words simply, was it a necessity that you discharge some in order to admit others?

MAHLODI DAPHNEY NDLOVU: Yes it was a necessity because we were not having space to accommodate the others. Otherwise some will, would have sleep on the floor. But just for creation of the space we used the two NGO's to assist us.

ARBITRATOR JUSTICE MOSENEKE: Now, what numbers went to Anchor Life? I mean, did they have the space to take on all these patients so discharged? Without a doctor, a professional nurse, a social worker? In short, professional staff. Did they have the space to take the new patients?

MAHLODI DAPHNEY NDLOVU: Yes.

ARBITRATOR JUSTICE MOSENEKE: Why were they on your premises in Cullinan? By, they, I mean Anchor Life, NGO.

MAHLODI DAPHNEY NDLOVU: Siyabadinga and Anchor, for them to be in the institution for...

ARBITRATOR JUSTICE MOSENEKE: I'm sorry I said Anchor Life, I apologize.

MAHLODI DAPHNEY NDLOVU: For Anchor to be in the institution, I cannot answer for that. Maybe the CEO of Cullinan will give a better explanation. But regarding to Siyabadinga, we were informed, on the 8th of January 2016 that there will be an NGO in the premises. We were informed by our CEO and weekly meetings were held in order to prepare, together with the NGO for this, for this preparedness of the space of the patients. So initially we were informed that the NGO that would be in the institution, it would be Life Disciples. And then after some time it changed to Siyabadinga.

ARBITRATOR JUSTICE MOSENEKE: What did the CEO say, why was it necessary to have the NGO on the premises of the province?

MAHLODI DAPHNEY NDLOVU: That one Judge, I'm not the relevant one to answer. The CEO will...

ARBITRATOR JUSTICE MOSENEKE: No, no, no I think you might be, I'm asking you what the CEO said to you about the reason about housing an NGO on state premises?

MAHLODI DAPHNEY NDLOVU: That one again Judge, I think, I cannot answer for it, but the challenge that we had, it was according to our criteria, most of the patients have exceeded their stay in the institution. So if the patient has reached the ceiling then we discharge the patient to NGO's around, around Gauteng if the patient is from around Gauteng. So according to the CEO, she said to me Daphney, just because we are struggling to get NGO's that can cater for our mental intellectual, for our intellectual disability patients, it's better we have, that we have better NGO's assist us in discharging our patient. But for it to be in the institution, I don't know how did it come. But to be honest, we were struggling to get facility's that can take our mental ill patients after discharge.

ARBITRATOR JUSTICE MOSENEKE: The part of the, your facility, CCRC, was used by Siyabadinga and Anchor, was it formally part of the Cullinan Rehabilitation Center.?

MAHLODI DAPHNEY NDLOVU: Yes. It was, Anchor was using an active ward of Cullinan. But after renovating the other ward, the patients that were at Anchor, at, at the spaces that were occupied by Anchor were removed and placed in a renovated ward.

ARBITRATOR JUSTICE MOSENEKE: Why didn't CCRC simply continue to use this facilities? Which also would have given the patients the professional care that your team was providing?

MAHLODI DAPHNEY NDLOVU: Judge, that one Judge, I don't know how to answer it. I can say in Cullinan Care and Rehabilitation Center. our designated capacity was 150. So during this Life Esidimeni process, it was, we had more than 150 patients, that's the reason why we had to discharge to NGO's.

ARBITRATOR JUSTICE MOSENEKE: Council.

ADV. TEBOGO HUTAMO: Yes. And these two institution, you had stated that you were informed on 8 January, what year is that? 2016?

MAHLODI DAPHNEY NDLOVU: 2016 Council.

ADV. TEBOGO HUTAMO: And where you informed about the level of experience of these NGO's, how many years have they been in this industry?

MAHLODI DAPHNEY NDLOVU: With the first NGO the Life Disciples, we were introduced to that, the people are the priests from, the other priest. Then after being introduced to Siyabadinga we were told that Siyabadinga is an existing organization from Ekangala, I think, from Nkangala, Yes they were catering for elderly, for elderly people there. So it's seems as if the organization was...

ADV. TEBOGO HUTAMO: Were you informed whether they were licensed to take care of these patients or not?

MAHLODI DAPHNEY NDLOVU: With the license it seems as if it was something that is on process.

ADV. TEBOGO HUTAMO: It was not yet finalized at the time and a decision had already made that patients will be referred to them?

MAHLODI DAPHNEY NDLOVU: Yes.

ADV. TEBOGO HUTAMO: And you also were not informed that one of them did not have a license?

MAHLODI DAPHNEY NDLOVU: No, we were not informed about that.

ADV. TEBOGO HUTAMO: And on page 12 of your report, you make reference to patients admitted to Life Esidimeni in Randfontein and Wayverley in June 2016 that were brought by LE personnel? These were not brought into your center by you? You did not fetch these patients?

MAHLODI DAPHNEY NDLOVU: Yes council.

ADV. TEBOGO HUTAMO: And they were 38 in number?

MAHLODI DAPHNEY NDLOVU: Yes, Council.

ADV. TEBOGO HUTAMO: Yes. And in relation to what you already testified to, on the top of page 14 you say Dr. Manamela send correspondence to the institution with the information that 30 MHCU's were to be sent to admission at CCRC team. Instead 38 MHCU's were brought from LE Randfontein and Wayverley in an ambulance and a bus from the Gauteng EMS.

MAHLODI DAPHNEY NDLOVU: Yes Council.

ADV. TEBOGO HUTAMO: So when this instruction was given to you, you had not accessed whether these patients met with your requirements of the institutions or not? But the instruction had already been given to you.

MAHLODI DAPHNEY NDLOVU: Yes Council.

ADV. TEBOGO HUTAMO: And you had to carry on, you had to carry out this instruction?

MAHLODI DAPHNEY NDLOVU: Yes Council.

ADV. TEBOGO HUTAMO: And you indeed carried that out?

MAHLODI DAPHNEY NDLOVU: Yes Council.

ARBITRATOR JUSTICE MOSENEKE: But didn't somebody, your the head, the CO, tell Dr Mallamela that you don't have the space to take on 38 more people? Patients?

MAHLODI DAPHNEY NDLOVU: And that is the reason...

ARBITRATOR JUSTICE MOSENEKE: And that you could only do this by sacrificing the patients you already have.

MAHLODI DAPHNEY NDLOVU: Yes that is the reason why some of the patients were discharged on the 23rd. Most of the patients were discharged on the 23rd from our institution to Anchor. Some to Siyabadinga. I think, one, one or two, to Siyabadinga. Because the patients that was sent to the institution, if you look at the frail patient you cannot say, you cannot compromise a frail patient by a mobile patient. So we did took the mobile one to the NGO and sacrificed space for those ones who are bed ridden and fragile.

ARBITRATOR JUSTICE MOSENEKE): Did Dr Manamela understand that? That actually instructs you to take the number that you set out on page 12 and 13, in-effect you have to sacrifice 38 other patients who must give way, who appear not to be frail, to give way to the new ones from Life Esidimeni? Did she know this? That in fact you will have to, you had done. Sacrifice others for the new ones?

MAHLODI DAPHNEY NDLOVU: According to CEO Ms Nyatlo, when she gives us feedback it seemed as if each and everything that was happening in the institutions, there was communications between her and Dr Manamela. Cause she was also indeed worried about the large number of patients that we admitting.

ARBITRATOR JUSTICE MOSENEKE: I know we are going to get there but you know that these patients that you've described as mobile and less vulnerable, died in large numbers at Anchor and Siyabadinga. That you know now, isn't it?

MAHLODI DAPHNEY NDLOVU: Yes, I know, Judge.

ARBITRATOR JUSTICE MOSENEKE: All the people that you moved out in these circumstances met their death the minute they were no longer under your care. You know that?

MAHLODI DAPHNEY NDLOVU: I know that judge.

ARBITRATOR JUSTICE MOSENEKE: And at that time didn't your CEO realize that this might be, from what she said to you, that this might be the consequences? That this will now look like the ones on their feet might die if they are moved to an environment where there was no professional nurse, professional social worker, professional occupational therapist, professional doctor and psychiatrist, didn't she realize that?

ARBITRATOR JUSTICE MOSENEKE: (1:12:41- African Language) Why are looking at me?

MAHLODI DAPHNEY NDLOVU: (laughs)

ARBITRATOR JUSTICE MOSENEKE: I'm saying in the witness' mother tongue, "You looking at me, for a long time, are you about to answer?"

MAHLODI DAPHNEY NDLOVU: Judge, all I can say is that what was happening, we were not like giving justice to our patients. But it was the instructions from above. And the people who were sending patients in large numbers were not even in our grassroots level just to come and see what is happening in Cullinan.

ARBITRATOR JUSTICE MOSENEKE: Do you think if they'd come to see the obligations and duty's you actually had with the patients and what you had seen with the conditions at Siyabadinga and Anchor, it might have changed?

MAHLODI DAPHNEY NDLOVU: Yes, yes Judge.

ARBITRATOR JUSTICE MOSENEKE: Personally you did realize that what was happening held a lot of dangers for the patients? I mean, you as a professional that works with them.

MAHLODI DAPHNEY NDLOVU: Yes Judge.

ARBITRATOR JUSTICE MOSENEKE: Council.

ADV. TEBOGO HUTAMO: Yes. From the parts of what we've dealt with, your discharges appears to have been directed to Anchor house. That is the NGO. As I referred to.

MAHLODI DAPHNEY NDLOVU: Yes, and Siyabadinga

ADV. TEBOGO HUTAMO: And Siyabadinga? Why was that so?

MAHLODI DAPHNEY NDLOVU: These discharges happened this way. We've created space for 74 patients. That's when we discharged the patients but it was with badges to say from CCRC to Siyabadinga, firstly. Then thereafter we moved off, taking patients [inaudible 1:15:35] taking patients repeatedly, it was because of the patients that were brought in to the institution. The ones that we did with from the CCRC to Anchor it was completely so, cause it was with badges, going and checking if patients are adapting well in the institution. But the problem came when we go and fetch the target that was not agreed upon.

ADV. TEBOGO HUTAMO: Did it not appear to you, as it now appears, that you somehow acted as the reception center for, this NGO, this Anchor house and Siyabadinga has somehow happened? You received, and you discharged some of them, you received, and you discharged some of them.

MAHLODI DAPHNEY NDLOVU: Yes, it happened that way council.

ADV. TEBOGO HUTAMO: Why didn't you raise that with your seniors?

MAHLODI DAPHNEY NDLOVU: We have raised our concerns as a team. But our CEO was telling us that, this is an instruction, let's do the way we were instructed because I'm also being instructed from above.

ADV. TEBOGO HUTAMO: So it was impossible for these two NGO's, why was it impossible for this two NGO's to receive patients directly from Life Esidimeni Centers. and not through you?

MAHLODI DAPHNEY NDLOVU: Some of the patients, let me say after Anchor was no longer rendering services for their patients in our center, when we took over there were some of the patients that were not, that did not pass through us to them. They came from Life Esidimeni to Anchor.

ADV. TEBOGO HUTAMO: I see. And how many were these if you have done a head count?

MAHLODI DAPHNEY NDLOVU: Let me give you the correct figure by checking. Siyabadinga...

ARBITRATOR JUSTICE MOSENEKE: On page 17 I think you talk about that.

MAHLODI DAPHNEY NDLOVU: In Siyabadinga we discharged 73 patients to Siyabadinga and after, page 72...

ADV. TEBOGO HUTAMO: It is on page 17 of your report.

MAHLODI DAPHNEY NDLOVU: Page 17. No, page 17 is the grand total of the patients that were admitted straight from Life Esidimeni. From Siyabadinga we've discharged 73 patients. And to Anchor it was plus minus 36. But when we took over the patients from Anchor, there were 46 or 47 if I am not mistaken.

ADV. TEBOGO HUTAMO: Oh, I see. Well then, just to move off this point on page 14, you referred to certain patients admitted from Hammanskraal on 25 July and 16 November 2016.

MAHLODI DAPHNEY NDLOVU: Hmm

ADV. TEBOGO HUTAMO: There was no space created for these patients?

MAHLODI DAPHNEY NDLOVU: During the admission of these two, on 25 of July 2016 we didn't discharge anyone to create space for them. We were not having space but we admitted them in the institution.

ADV. TEBOGO HUTAMO: Then on, 15 patients admitted from [inaudible 1:20:12] hospital from 25 January 2017 previously from previous patients.

MAHLODI DAPHNEY NDLOVU: Yes.

ADV. TEBOGO HUTAMO: They came to you as well?

MAHLODI DAPHNEY NDLOVU: Yes.

ARBITRATOR JUSTICE MOSENEKE: Were you told why, they were moved from 'Precious Angels' in Cullinan to yourselves?

MAHLODI DAPHNEY NDLOVU: According to, according to acting CEO Malaza, she said we must prepare the beds for this 21 patients as Precious Angels has been closed down.

ARBITRATOR JUSTICE MOSENEKE: Did you come to know why Precious Angels was closed down?

MAHLODI DAPHNEY NDLOVU: Yes.

ARBITRATOR JUSTICE MOSENEKE: What was the reason?

MAHLODI DAPHNEY NDLOVU: We didn't, I didn't ask.

ARBITRATOR JUSTICE MOSENEKE: Oh. You didn't understand my first question. My first question was did you come to know why Precious Angels were closed down?
1.21.44

MAHLODI DAPHNEY NDLOVU: With the closing down of precious angels it was not explained to us. We were just told that, create space for the patients that were coming from Pretoria West and Kalafong and precious angels were closed down.

ARBITRATOR JUSTICE MOSENEKE): Did you, did you have the space to take on the new patients from Kalafong?

MAHLODI DAPHNEY NDLOVU: Yes we did have space to take them. Because at that time, our.... Our... our number was already, our beds had already increased. The number of admitted patients were already higher than 150 that we designated to admit.

ARBITRATOR JUSTICE MOSENEKE): Council

ADV. TEBOGO HUTAMO: Yes. On page 16 you made reference that some of this patients came with some ailments and poor health. These the patients that came from precious angels?

MAHLODI DAPHNEY NDLOVU: These patients were not coming straight from Precious Angels. They were coming from Kalafong and Pretoria West hospital. It seems as if it was the patients that were taken from precious angels to this two hospitals.

ADV. TEBOGO HUTAMO: So they are originally from precious angel?

MAHLODI DAPHNEY NDLOVU: That one I can acknowledge.

ADV. TEBOGO HUTAMO: Oh I see. And there is one that you cannot identify refer to Zodwa Phemvu and Marriam Nyende what happened of these patient?

MAHLODI DAPHNEY NDLOVU: In the institution we admitted Zodwa Phemvu and Marriam Nyende. And this two patients were both discharged to Anchor. From Anchor they were discharged again to precious angels. Then January when we were admitting again this batch, it seems as if this was miss identification. Cause Zodwa Phemvu came as Marriam Nyende came from where he was coming from. But when he was going Anchor...

ADV. TEBOGO HUTAMO: She was Nyende.

MAHLODI DAPHNEY NDLOVU: Yes. She was Zodwa.

ARBITRATOR JUSTICE MOSENEKE: But you know... um, by this time January 2017, many many people had died, even when you were receiving people from Kalafong and Pretoria West and they were in poor state of health. Many, many of the patients that were at your rehabilitation center had died.

MAHLODI DAPHNEY NDLOVU: Yes Judge.

ARBITRATOR JUSTICE MOSENEKE: Were you people aware of that? Did you know that?

MAHLODI DAPHNEY NDLOVU: Yes, I'm aware, Judge.

ARBITRATOR JUSTICE MOSENEKE: And what was your response of your CEO and institution? Many of the people you looked after and discharged... within months they died. What, what was your response, what was your reaction, as an institution? How did you perceive this tragedy? Your duty is to preserve lives and you have patients in the institution facility, you discharged them against your will and after they die. Please describe your response to this.

MAHLODI DAPHNEY NDLOVU: Judge, it was indeed very painful to hear like each and every after two days, that one patient had passed on. It was very very painful for us.

ARBITRATOR JUSTICE MOSENEKE: And these are patients that you could identify, that had gone through your hands, isn't it?

MAHLODI DAPHNEY NDLOVU: Yes Judge.

ARBITRATOR JUSTICE MOSENEKE: Now, let's look at this schedule for instance, I'm sure that council will take you there. ELAH11 that's the number of the exhibit. The schedule is meant to tell us about mental healthcare users received from Life Esidimeni. In other words by yourselves. This is your schedule that you received. Look at the destination column. Can you see how often the name Anchor appears for instance on sheet one? Can you see that?

MAHLODI DAPHNEY NDLOVU: Yes, Judge.

ARBITRATOR JUSTICE MOSENEKE): You turn it over to the part of 'Anchor' here appearing and you page sheet after sheet you will see 'Anchor here 'Anchor' there. And indeed many you can see there is lots of that. And then there are patients who destinations were home. I want you to tell me about that? Those that went to Anchor, we know a lot about them. They died. What about those for instance on the schedule from 1 to 38 who were discharged to their homes. Did you come to know what happened to them?

MAHLODI DAPHNEY NDLOVU: The patients, Judge from the institution to home, it was only this last year. Last year we didn't have any discharges from home.

ARBITRATOR JUSTICE MOSENEKE): So the critical time you did not have any discharges to home? If you look at page 4 you know the spreadsheet. So all of those that appear there, brought by Life Esidimeni, you can see people are discharged home. Did that happen at your institution?

MAHLODI DAPHNEY NDLOVU: Yes Judge.

ARBITRATOR JUSTICE MOSENEKE): Why did you discharge them home?

MAHLODI DAPHNEY NDLOVU: It was through the request of the families.

ARBITRATOR JUSTICE MOSENEKE): So these were not on instruction of nobody to have them discharged?

MAHLODI DAPHNEY NDLOVU: No, the... the we had 57 patients that were discharge in the institution in April, in April and May. But that...

ARBITRATOR JUSTICE MOSENEKE): 2016?

MAHLODI DAPHNEY NDLOVU: 2017, sorry

ARBITRATOR JUSTICE MOSENEKE): 2017. But that is long after the big transfer of April, May 2016. Isn't it?

MAHLODI DAPHNEY NDLOVU: Yes. Judge.

ARBITRATOR JUSTICE MOSENEKE): Long after many patients were dyeing at the time.

MAHLODI DAPHNEY NDLOVU: Yes, Judge. And those 57 patients were discharged back to Wayverley, in Germiston.

ARBITRATOR JUSTICE MOSENEKE): Oh, so they did not go home, they went back to Wayverley?

MAHLODI DAPHNEY NDLOVU: Yes. Judge.

ARBITRATOR JUSTICE MOSENEKE): On whose instructions? Or for what reason?

MAHLODI DAPHNEY NDLOVU: It was after... it was after the task team that was elected by Dr Mazwalettie.

ARBITRATOR JUSTICE MOSENEKE): By the minister. So this was part of the clean-up process were we see all these people going back to Wayverley?

MAHLODI DAPHNEY NDLOVU: Yes, Judge.

ARBITRATOR JUSTICE MOSENEKE): Council.

ADV. TEBOGO HUTAMO: Yes. Thank you. Ms Ndlhovu on page 20, you make reference to Cullinan Care and rehabilitation center about deaths there, its 2016 to April 2017.

MAHLODI DAPHNEY NDLOVU: Page 20 Of

ADV. TEBOGO HUTAMO: Page 20 of your report, I'm still coming to the other issue. Page 20, are you there?

MAHLODI DAPHNEY NDLOVU: Yes.

ADV. TEBOGO HUTAMO: Is this the full list of the ????? st the institution during this time?

MAHLODI DAPHNEY NDLOVU: From this time... this list was compiled in April, ne? It means it was from 2016 to April 2017 but now the number has increased.

ADV. TEBOGO HUTAMO: By how much has it increased?

MAHLODI DAPHNEY NDLOVU: By 5 patients.

ADV. TEBOGO HUTAMO: And when did this occur?

MAHLODI DAPHNEY NDLOVU: Between 2016 last year and yesterday if I may say there's nothing that had from the institution this morning about any death.

ADV. TEBOGO HUTAMO: Okay. And this the former Life Esidimeni patients. How many former Life Esidimeni?

MAHLODI DAPHNEY NDLOVU: Not all of them.

ADV. TEBOGO HUTAMO: How many are former Life Esidimeni patients?

MAHLODI DAPHNEY NDLOVU: 15 of them are former Life Esidimeni. From CCRC list, cause we do have 3 sub-sections.

ADV. TEBOGO HUTAMO: Okay, then, on page 23 there is reference to Anchor NGO, for Shoka Charity. Then is there anything else you want to share with us in relation to these deaths?

MAHLODI DAPHNEY NDLOVU: Okay. Shock Kenneth was never admitted to CCRC it was an admission straight Life Esidimeni to Anchor, Gumede also it was straight from Life Esidimeni to Anchor Hlatshwayo passed through Cullinan, and discharged to Anchor. ????? Was a straight admission to Anchor. Ratsotso passed through to Anchor.

ADV. TEBOGO HUTAMO: Thank you.

MAHLODI DAPHNEY NDLOVU: I want to add something to the other cases. Gumede Joseph is the patient that died last year on the 24th of July 2016 at Anchor. He died at Anchor. And former acting CEO Mrs. Malaza directed me to go and trace the family and this case it was a Anchor case not Cullinan care and rehabilitation center case. So I am employed at Cullinan Rehabilitation Center. So I intervened on this case due to the instruction from Mrs. Malaza.

ARBITRATOR JUSTICE MOSENEKE): What would her interest be? In you doing that?

MAHLODI DAPHNEY NDLOVU: She said just because Anchor does not have a social worker and Anchor is housed in Cullinan, 'would you please assist by tracing the family of this patient?' Then I disagreed with her, I said I am not employed in Anchor, then she said, 'I am instructing you to do this case' because it was not one case. It was one, two, three cases. I requested Ms Malaza to give me something in black and white just because I was crossing the boundaries. Then she said to me, 'Daphne, you also want me to request something written in black and white from Dr ???? And the MEC?' That's when I was forced to intervene in these cases. And the other case is the case of

Shama. The case of Izak Shama, I was also instructed to trace the family. And Shama is not housed in our institution, it some were housed... it's some were in Cullinan.

ARBITRATOR JUSTICE MOSENEKE): Now this brings to mind the question about how did you ordinarily deal with people who lost their lives? Let's start at your institution? What is the normal procedure when a patient passed on? How do you deal with the patient's body?

MAHLODI DAPHNEY NDLOVU: If a patient passes away in Cullinan the nursing staff inform the family. If it's during the night or during the weekend, then if it is during the week days, then the information pass my office as that I can check in my file that we do have the contact details of the family, the physical address of the family, in order for me to go and inform the family of the death of their beloved ones.

ARBITRATOR JUSTICE MOSENEKE): If you don't have those particulars, like 50% of those in Life Esidimeni as you told us. How do you deal with that death?

MAHLODI DAPHNEY NDLOVU: we do have cases of that sort Judge. We still having a man who died last year, May or June, if I'm not mistaken, they can... the body is still in the mortuary as we speak. Because the patient doesn't have an ID book, no details of the family's, we don't have a physical address of the patient. Then with the others that are given in the file we checked the people that we have found it doesn't relate or anything about our patient. So that's the challenge that we are having in the institution.

ARBITRATOR JUSTICE MOSENEKE): Do you sometimes have proper funerals?

MAHLODI DAPHNEY NDLOVU: During my presents there was no paper. No paper was done until now.

ARBITRATOR JUSTICE MOSENEKE): You would make sure you had the proper details that the patient is there? Why don't you have proper funerals?

MAHLODI DAPHNEY NDLOVU: A proper funeral, Judge, is not something that you can say, tomorrow we going to popper this. I think we have to exhaust every other to trace the family. That is why then we still keeping those body's in the mortuary. One of the body's in Bronkhorstspruit, then we have five body's in the hospital.

ARBITRATOR JUSTICE MOSENEKE: You have now just told us about seven corpse that are still not identified in the mortuary. Is that the same number or is it different from what you just told us about.

MAHLODI DAPHNEY NDLOVU: I think that it is the same. But the other one I don't know can be from another facility. In our institution we have one body in Bronkhorstspruit mortuary and five in Mamilodi mortuary.

ARBITRATOR JUSTICE MOSENEKE: Are you still looking for family members? In order to deal with those bodies?

MAHLODI DAPHNEY NDLOVU: Yes, we tried finding out at home affairs, tried checking with SASA what I can say is that we have exhausted whatever that can assist us in locating the families. But we are not hopeless, we are still to try and check and assist us in trying to locate the families.

ARBITRATOR JUSTICE MOSENEKE: Why is it so important that you find families for the deceased patients?

MAHLODI DAPHNEY NDLOVU: according to my knowledge it is good to inform the families, Judge about the death about their beloved ones. Unlike we quickly take the decision doing a pop-up funeral. Then after maybe the family can come out. We did have an instance of one family that we were looking, we were trying to trace for ten years and we didn't find them. But fortunately the patient was still alive. After the family coming in to visit, to check if the patient is still alive cause that was the first question when they arrived at the institution. 'Is this one or this one still alive'? But, yes... then

they went to the ward and visit the patient. Unfortunately after three weeks the patient passed on. Then we were lucky just because the family came.

ARBITRATOR JUSTICE MOSENEKE): And lastly before we go to tea know. Let me just ask, Council how much more questions do you have?

ADV. TEBOGO HUTAMO: I just have a few questions on this schedule, but we can go to tea.

ARBITRATOR JUSTICE MOSENEKE): I'm not hurrying you, indeed how many questions, how long.

ADV. TEBOGO HUTAMO: I can break with her now before we go to tea.

ARBITRATOR JUSTICE MOSENEKE): We can do what now?

ADV. TEBOGO HUTAMO: I can finish with her now before we go to tea.

ARBITRATOR JUSTICE MOSENEKE): As long as you don't finish her off. Okay, very well.

ARBITRATOR JUSTICE MOSENEKE: I have questions about families. You can think about them and come and answer later. After cross examination. About the frequency that family members come and visit. Their beloved ones. And their involvement in their care and, and, and rehabilitation. Think about it, I'll ask it right in the end. Just to know how much family's care. But I'll ask later. Council, you can go ahead.

MAHLODI DAPHNEY NDLOVU: Okay, Judge. I'll be glad to answer because it is indeed a challenge for us.

ARBITRATOR JUSTICE MOSENEKE): Yes, I'll come back to that. Counsel would you like to round off your or take the tea break? Please!

ADV. TEBOGO HUTAMO: From the...evidence how did it come about that you were instructed by your former CEO Malaza to go and look for the family? How did it come about that Anchor house approached Malaza and not you to deal with this request?

MAHLODI DAPHNEY NDLOVU: According to my understanding it, with the case Majaho, it seems as if Mrs Malaza and Anchor house had some meetings about it. Because I only knew about the case when I came back from my two weeks leave. I was approached that I must go and trace the family's. Since Anchor does not have a social worker and the transport, a vehicle to do the home visit.

ADV. TEBOGO HUTAMO: On the big charts, there is a list of names toward the end of, it is LMH11, from the 4th last page, you refer to a list of the discharged MAC's from Siyabadinga, is that the complete list of names that were discharged. The number is 73?

MAHLODI DAPHNEY NDLOVU: Yes

ARBITRATOR JUSTICE MOSENEKE): Okay, Thank you Justice, I don't have anything further for this witness.

ADV. TEBOGO HUTAMO: Thank you justice.

MAHLODI DAPHNEY NDLOVU:

ARBITRATOR JUSTICE MOSENEKE): We are going for a tea break, I'll give you tea too. And we'll be back, I'm sure there will be questions. Let me give an idea of what is going to happen, I like doing that for the witness to be more relaxed and to anticipate . You going to be asked questions about a number of families, who's beloved one is deceased. Section 27 and followed by Legal Aid South Africa. Then followed by yet another council is going to ask you what happens once you died. Typically in

connection with CCRC advocate Groenewald. Then you going to be cross examined by the state. Council for the state, the advocate who asked you questions now who has re-examined you now after cross examination That's what's going to happen from now on. We are going to have a tea break, I wish you well, and I hope they are going to give you tea. Then I will see you when we come back.

We will adjourn now.

16 10 2017 SESSION 2

Arbitrator (ARBITRATOR JUSTICE MOSENEKE): Advocate Adila Hassim?

Adv. Adila Hassim: Thank you Justice, I will be handing over to my colleague, Ms Stein for this cross examination.

ARBITRATOR JUSTICE MOSENEKE: Ms Stein?

ADV. NIKKI STEIN: Thank you Justice. Good afternoon, Mrs. Ndhlovu, my name is Nikki Stein. I am one of the representatives of 58 families who lost their loved ones in this tragedy. Mrs. Ndhlovu you testified earlier that approximately 60% of mental health care users were transferred with their medical files. Is that correct?

MAHLODI DAPHNEY NDLOVU: Yes it is correct Counsel.

ADV. NIKKI STEIN: You said that approximately half of them were transferred with contact details of their families. Is that correct?

MAHLODI DAPHNEY NDLOVU: It is correct Counsel.

ADV. NIKKI STEIN: And finally you said about 70% had their ID books or ID numbers with them. Is that correct?

MAHLODI DAPHNEY NDLOVU: Correct Counsel!

ADV. NIKKI STEIN: So, the mental health care users were transferred into your care at Cullinan? Is that correct

MAHLODI DAPHNEY NDLOVU: Yes, Counsel.

ADV. NIKKI STEIN: And your responsibility at Cullinan was to ensure they were properly cared for?

MAHLODI DAPHNEY NDLOVU: Yes, Counsel.

ADV. NIKKI STEIN: In order for them to be properly cared for, you needed some basic information about these patients?

MAHLODI DAPHNEY NDLOVU: Yes, Counsel.

ADV. NIKKI STEIN: And that included things like family contact details?

MAHLODI DAPHNEY NDLOVU: Yes, Counsel.

ADV. NIKKI STEIN: It included their medical history

MAHLODI DAPHNEY NDLOVU: Yes, Counsel.

ADV. NIKKI STEIN: It included the confidence you had the medicine that they needed and the prescription for that medicine going forward?

MAHLODI DAPHNEY NDLOVU: Yes, Counsel.

ADV. NIKKI STEIN: Mrs. Ndhlovu, was it not then unreasonable to take those patients into your care when you didn't have that information and you knew you couldn't properly care for them?

MAHLODI DAPHNEY NDLOVU: Remember Nikki I mentioned that things were not working accordingly.

ARBITRATOR JUSTICE MOSENEKE: Let's keep to Counsel. You can do first names out of the hearing.

MAHLODI DAPHNEY NDLOVU: Counsel, I have alluded previously that the process was not smooth of the removal of patients.

ADV. NIKKI STEIN: The process was not smooth we understand Mrs. Ndhlovu. Do you agree with me though that it was unreasonable to accept those patients knowing that you couldn't care for them?

MAHLODI DAPHNEY NDLOVU: I somehow differ with you Counsel, because we've tried our best to admit psychosis patient, schizophrenic patient of which it was not the patients of our criteria but we did our best.

ADV. NIKKI STEIN: So, Mrs. Ndhlovu Cullinan Care and Rehabilitation Center. did not ordinarily admit patients with psychosis?

MAHLODI DAPHNEY NDLOVU: Previously we were not having patients with psychosis or psychophernia in the institution. That was our first patients to admit.

Stein: So because of the pressure of the Life Esidimeni and Gauteng Health Marathon Project, Cullinan Center. took in patients with psychosis and psychophernia?

MAHLODI DAPHNEY NDLOVU: Yes, Counsel.

Stein: Even you don't have experience in treating these patients?

MAHLODI DAPHNEY NDLOVU: Yes, Counsel.

Stein: And even though you didn't have the capacity to treat these patients?

MAHLODI DAPHNEY NDLOVU: I can say yes, Counsel. I said initially the initial plan was for a multi-disciplinary team of Cullinan to go to Life Esidimeni and access the patients before they can be admitted in the institution, but the plan was not executed. Why? I don't know. We were not informed about that. The only day that we were told to go and fetch the patients was on the 9th. We were told that on the 10th we will be going to Life Esidimeni to collect patients. It was only 10 patients and according to our knowledge we were going to receive the patients that are relevant to our criteria. But to our surprise when we get there we were forced to take more than we had expected.

Stein: Moving on to that issue Mrs. Ndhlovu, you testified earlier and again now that you were forced to take 26 patients.

MAHLODI DAPHNEY NDLOVU: Yes.

Stein: We've just heard now that some these were patients with illnesses that Cullinan had not previously taken

MAHLODI DAPHNEY NDLOVU: Yes, Counsel.

ADV. NIKKI STEIN: And you testified earlier that it will be against the interest of these patients to admit more than 10.

MAHLODI DAPHNEY NDLOVU: Yes, Counsel.

ADV. NIKKI STEIN: You didn't refuse to take these patients.

MAHLODI DAPHNEY NDLOVU: Our first day in Life Esidimeni we were in Randfontein. We refused to take more than 10 patients but there was a telephone communication between our CEO, Salome Mashele and Dr. Manamela. Then our CEO said to us after the communication, 'please just come with whatever they give to you because I have communicated with this people. I told them that we cannot admit more than we are expected to admit. But just because they are forcing, please just take whatever they are giving you.' That is where 26 patients were loaded into the bus and on our way back to Cullinan, we were calling for them just to make sure that when we arrive there, there's food and beds for the patients. That was it.

Stein: Thank you. Mrs. Ndhlovu you said earlier that you were asked by the CEO to take the patients and when you got there, you were forced to take the 26 patients. Was it Dr Manamela who forced you to take those 26 patients?

MAHLODI DAPHNEY NDLOVU: Dr. Manamela was not in the premises at the Randfontein Life Esidimeni facility. When we arrived there, it was Salome Mashile and Freedah Senelo.

Stein: And those were the people that forced you to take the patients?

MAHLODI DAPHNEY NDLOVU: Yes.

Stein: Mrs. Ndhlovu, later on in your evidence in chief, you stated that you discharged people from Cullinan to make space so that you may have space for patients coming in from Life Esidimeni?

MAHLODI DAPHNEY NDLOVU: Yes Counsel.

ADV. NIKKI STEIN: You stated that you also just discharged Life Esidimeni patients to other NGOs like Anchor and Siyabadinga.

MAHLODI DAPHNEY NDLOVU: Yes Counsel.

ADV. NIKKI STEIN: You spoke to us about the discharge procedures that needed to be followed.

MAHLODI DAPHNEY NDLOVU: Yes, Counsel.

ADV. NIKKI STEIN: And that those are necessary for the protection of patients?

MAHLODI DAPHNEY NDLOVU: Yes, Counsel.

ADV. NIKKI STEIN: And yet you did not follow these?

MAHLODI DAPHNEY NDLOVU: With contacting of families for the patients that we did receive the contact details, we tried our best to call to inform them. Remember, when the patients arrived at Cullinan on the 10th, the following day, we called the families for the patients those who have the contact details and informed them that your beloved ones are now placed in Cullinan. Those whom we found, we informed them. For those whom we didn't have the contact details, it was unfortunate. And the same procedure happened when we discharged the patients from CCRC to the two NGOs. We called the families to inform them that the patients are being discharged from Cullinan to Anchor or Siyabadinga. But we our patients, the ones that were in Cullinan, before we could take Life Esidimeni patients, we had three, three meetings with the families to inform them about the discharge of the patients from Cullinan, our initial patients from Cullinan to Siyabadinga. Most of them they went to Siyabadinga.

ADV. NIKKI STEIN: But those contact details, those families whose contact details you had not yet found would not have been part of these meeting. Is that correct?

MAHLODI DAPHNEY NDLOVU: Come again Counsel?

ADV. NIKKI STEIN: Mrs. Ndhlovu, you said you did not have the contact details for all the families. Is that correct?

MAHLODI DAPHNEY NDLOVU: For all of the families?

ADV. NIKKI STEIN: Is that correct?

MAHLODI DAPHNEY NDLOVU: It is not correct. What I am saying is that Counsel, we had patients in Cullinan before this process of Life Esidimeni. Those patients were discharged from our institution to Siyabadinga to make space for Life Esidimeni patients. And we had to again discharge the ones that we received from Life Esidimeni to our institution and discharged them from our institution to NGOs. I am saying for the patients that we did have the contact details of the families, we informed them about the movement of the patients.

ADV. NIKKI STEIN: For those you did not have contact details, you did not inform them?

MAHLODI DAPHNEY NDLOVU: No.

ADV. NIKKI STEIN: Okay, thank you.

ARBITRATOR JUSTICE MOSENEKE: The answer is yes.

MAHLODI DAPHNEY NDLOVU: For the families that we didn't have contact details, we discharged the family, we discharged the patients without contacting the family because the challenge was we don't have where to find them.

ARBITRATOR JUSTICE MOSENEKE: Yes, thank you. That is much clearer.

ADV. NIKKI STEIN: Thank you, Judge. Mrs. Ndhlovu, you also testified earlier that there was no professional staff to assess and look after patients and that you discharged from Cullinan to Siyabadinga and Anchor. Is that correct?

MAHLODI DAPHNEY NDLOVU: Yes, Counsel.

ADV. NIKKI STEIN: And yet, you still allowed for the discharge of the patients.

MAHLODI DAPHNEY NDLOVU: Yes, we continued Counsel.

ADV. NIKKI STEIN: And the reason for that was that Anchor and Siyabadinga had more spaces?

MAHLODI DAPHNEY NDLOVU: Yes, Anchor and Siyabadinga had space. We started our discharges with Siyabadinga before Anchor can come in. Anchor came in, I started knowing Anchor on the 23rd of June 2016. Of which we've already started with our process of discharging patients from our center to Siyabadinga.

ADV. NIKKI STEIN: Because they had space to take the patients?

MAHLODI DAPHNEY NDLOVU: Yes, Counsel.

ADV. NIKKI STEIN: So, that was your primary criteria with the issue of where there were beds to sleep for patients?

MAHLODI DAPHNEY NDLOVU: Yes, there were beds in Siyabadinga. Before we discharged the patients to Siyabadinga, we went and check if anything that patient can need is there. There were beds, there were blankets there were food. We were even

taken to where they stored their groceries even their room refrigerator there was food, enough food for the patient in Siyabadinga.

ADV. NIKKI STEIN: But there were no professional staff?

MAHLODI DAPHNEY NDLOVU: We were... during our first batch to Siyabadinga, we were told that there is a nurse of witch after, after some days that person we, we, we thought it's not a nurse but a care-giver. Because I remember there was this other day where, where by a matron was explaining the medication to that person. Then that Madame was like, 'Oh, my goodness. Tegratoll, (14:52) what is that? Tegratoll, Risperdal (14:59) that is what we have seen when we were...

ARBITRATOR JUSTICE MOSENEKE: The bottom line is that there was no nurse there, no proper nurse.

MAHLODI DAPHNEY NDLOVU: According to our perception that person was not a nurse because if you are a nurse you will know the medications of the patients. Our worry was like starting from there. I remember the matron asking me on our way back saying; 'Daphne have you heard what I heard'?. And I said yes ma'am. That person was like amazed when she was explaining the medication to her. She seemed to be not understanding and knowing the names of the medication. But we kept on discharging the patients to those people because of the instruction that were given.

ADV. NIKKI STEIN: Mrs. Ndhlovu, it's like you reading my mind because I'm moving on to those instructions you were talking about. You made reference a few times in your evidence in chief to instruction from above.

MAHLODI DAPHNEY NDLOVU: Yes, counsel.

ADV. NIKKI STEIN: You never challenge these instructions. Did you?

MAHLODI DAPHNEY NDLOVU: We did, we did, we did spoke to the CEO that we do have concerns about where the patients are going. Then the CEO told us that, 'staff I was told, so... let the process continue I am having pressure from above, that the patients are coming, the patients are coming.' So, it was like, very, very hectic for us. It was, I do not know how to explain this situation, it was not nice, it was not nice. And she too gave us feedback that she's trying to communicate this with Dr Manamela, but it seems as if it doesn't help her. And the CEO, the Cullinan Care and Rehabilitation Center., CEO was... I don't know whether I can say was... suspended or on precautionary suspension because I'm not too clear on that. We, we, we asked ourselves some questions what happened. What happened. Then the information...

ARBITRATOR JUSTICE MOSENEKE: Just make it clear for the record. You mean the CEO of CCRC?

MAHLODI DAPHNEY NDLOVU: Yes. Mrs. Sliato (17:54)

ARBITRATOR JUSTICE MOSENEKE: When was Mrs. Sliato suspended?

MAHLODI DAPHNEY NDLOVU: I don't have an exact date, I forgot the date but it was around June, June after...

ARBITRATOR JUSTICE MOSENEKE: 2016?

MAHLODI DAPHNEY NDLOVU: June 2016. After, after, after... Anchor was in the institution. The information that we got is that the CEO was suspended, that is the rumors, the CEO was suspended because she didn't want to house Anchor in the premises. Because we only knew about Anchor 23rd of June 2016.

ARBITRATOR JUSTICE MOSENEKE: And your acting CEO became Mrs. Malasa?

MAHLODI DAPHNEY NDLOVU: Yes, Judge.

ARBITRATOR JUSTICE MOSENEKE: And she was the one who said, we have to do it, these are instructions.....

MAHLODI DAPHNEY NDLOVU: Mrs. Malasa the instruction that she gave me, it was about the other cases the one that I have eluded before we can go on our tea break.

ARBITRATOR JUSTICE MOSENEKE: Remind me of that.

MAHLODI DAPHNEY NDLOVU: It was regarding case of Gumede, (19:13) and Pulane.

ARBITRATOR JUSTICE MOSENEKE: Yes and a couple of people that were not been held by Cullinan Rehabilitation Center.

MAHLODI DAPHNEY NDLOVU: Please, come again, Judge.

ARBITRATOR JUSTICE MOSENEKE: I say, yes, you told us about the acting CEO instructing you to find family members of people who had died whilst at Anchor and you were unhappy about that and you asked her and she said; why did she say, why did she tell you that you must do it?

MAHLODI DAPHNEY NDLOVU: Yes Judge, because I am not employed by Anchor nor Siyabadinga, I am employed by Cullinan Care and Rehabilitation Center. as my job description says under the department of health. So, it created a little bit of tension between me and Mrs. Malasa.

ARBITRATOR JUSTICE MOSENEKE: She said to you that I am under instructions and so are you. Isn't it? In fact that is what she said to you?

MAHLODI DAPHNEY NDLOVU: She didn't put it that way, she didn't put it that way because according to me, she didn't get into my shoes as I know the ethical codes of a

social worker. No one has to intervene in other people's territories. I am not allowed to interfere with other people's jurisdiction. It was not my jurisdiction to go and trace the family, the families of the patients that were placed in Anchor. Anchor was supposed to have a social worker who must do the tracing for them. I was instructed and as an instruction, I took it and went to the families to inform them about the information of their beloved ones.

ARBITRATOR JUSTICE MOSENEKE: Thank you. Counsel.

ADV. NIKKI STEIN: Thank you Justice. You referred Mrs. Ndlhovu to the ethical code by which you are bound as a social worker and that ethical code it requires you to protect the best interest of those clients and patients that you serving.

MAHLODI DAPHNEY NDLOVU: Yes, Counsel.

ADV. NIKKI STEIN: Mrs. Ndlhovu you followed those instructions because you feared some kind of discipline from your employer, if you did not?

MAHLODI DAPHNEY NDLOVU: Exactly, insubordination! I feared that it was going to seem I am not listening to her.

ADV. NIKKI STEIN: Okay, thank you. Mrs. Ndhlovu, I'd like to ask you know to the set of files next to you, to pull up file 7 and go to page 2385.

MAHLODI DAPHNEY NDLOVU: Which page, Council?

ADV. NIKKI STEIN: Two Three Eight Five. This document is a license that's given to Anchor to care of mental health care patients. Is that correct?

MAHLODI DAPHNEY NDLOVU: It is my first time of seeing the document, Councilor, I am not familiar with this document.

ADV. NIKKI STEIN: Mrs. Ndhlovu, according to the license, Anchor is permitted or authorized to take 150 mental health care users. Earlier in your evidence in chief and at page 17, of your report that you were referring to, you stated that 163 patients were discharged to Anchor.

MAHLODI DAPHNEY NDLOVU: No Counsel, you didn't hear me well. We've received 163 patients. Our grant total of patients received from Life Esidimeni it was 163.

ADV. NIKKI STEIN: Cullinan you stated was licensed to take 150 people at a maximum.

MAHLODI DAPHNEY NDLOVU: Yes Counsel.

ADV. NIKKI STEIN: Was there any stage a group of 163 patients at Cullinan?

MAHLODI DAPHNEY NDLOVU: Previously before I worked at Cullinan, they once had capacity of 300 patients. But After receiving more than we must have in the institution, the capacity was increased to 300. We ended up last year having 267 patients, if I am not mistaken in the institution at Cullinan

ADV. NIKKI STEIN: And this was during the marathon project?

MAHLODI DAPHNEY NDLOVU: Yes Counsel.

ADV. NIKKI STEIN: 267 in Cullinan.

MAHLODI DAPHNEY NDLOVU: Plus minus.

ADV. NIKKI STEIN: Plus minus, okay, okay. Thank you. Mrs. Ndhlovu, I am now going to take you into some of the evidences.

ARBITRATOR JUSTICE MOSENEKE: Before you leave page 2385, I have a few questions. Is that page still opened in front of you Ms Ndlovu?

MAHLODI DAPHNEY NDLOVU: Yes, Judge

ARBITRATOR JUSTICE MOSENEKE: Two three eight five, is it still in front of you?

MAHLODI DAPHNEY NDLOVU: Yes, Judge

ARBITRATOR JUSTICE MOSENEKE: A few questions related to that. Of course, you can see there is a license under the mental care act. Now look at that; it says that this license is issued by the executive committee to management of ANCHOR house. And it says, at the following address; Khalafong Heights. Can you see that?

MAHLODI DAPHNEY NDLOVU: I can see Judge.

ARBITRATOR JUSTICE MOSENEKE: in the region of Tshwane. Is your address Khalafong house and is it in the region of Tshwane?

MAHLODI DAPHNEY NDLOVU: Our institution is in the region of Tshwane but it is not Khalafong Heights, it is Cullinan Care and Rehabilitation Center Zonderwater Road (26:35), Cullinan, 1000.

ARBITRATOR JUSTICE MOSENEKE: So would a license like this, so to speak, camp at the CCRC when their official address is Khalafong Heights?

MAHLODI DAPHNEY NDLOVU: As long as there's nothing that is amended requires them to be hosted in Cullinan, it seems as if the center was in Cullinan unlawfully.

ARBITRATOR JUSTICE MOSENEKE: And do you know any different any better? This is from paper. It just struck me that the address where they ought to operate is in Khalafong Heights, but we know now from your evidence that they actually came and set up operations at Cullinan Rehabilitation Center.

MAHLODI DAPHNEY NDLOVU: Judge that is why I am saying it seems as if they were illegally in our institution according to this document. Hence, I have already mentioned that I got to know of them on the 23rd of June 2016. We were not informed about this, before this NGO before.

ARBITRATOR JUSTICE MOSENEKE: Very well thank you, Counsel.

ADV. NIKKI STEIN: Thank you Justice, Mrs. Ndlhovu, as I said earlier, I am now going to take you to some of the evidence we are going to be hearing from the families of the deceased. I am going to start off with the family of Charity who you referred to earlier in your evidence in chief. We will hear later that Charity's mother; Mrs. Rakoka she will testify that Charity was moved from Life Esidimeni to CCRC. Is that correct?

MAHLODI DAPHNEY NDLOVU: Please come again, Council?

ADV. NIKKI STEIN: Charity Rakoka was moved from Life Esidimeni to Cullinan.

MAHLODI DAPHNEY NDLOVU: Yes, Council.

ADV. NIKKI STEIN: Okay. In December 2016, Charity's brother arrived to come and visit Charity and they could not find Charity at Cullinan. Is that correct?

MAHLODI DAPHNEY NDLOVU: Yes, Counsel. However, I was not present on that day, but a phone call, I received a phone call from the institution.

ADV. NIKKI STEIN: And you phoned Kevin a week later to say that Charity was still missing.

MAHLODI DAPHNEY NDLOVU: As far as I can remember Kevin was informed about the relocation of Charity Rasonso before Charity can go to Anchor. Maybe the family missed information somewhere because we indicated to them that Charity is being placed in Anchor, but that Anchor NGO is inside the premises of Cullinan and not outside or around of the premises of Cullinan, but inside. We are using one gate. We were using one gate with Anchor and Siyabadinga.

ADV. NIKKI STEIN: Just to clarify when Kevin came in December 2016, to Cullinan and Charity was not there, he was not at Cullinan but the possibility was there that she could have been moved to Anchor?

MAHLODI DAPHNEY NDLOVU: Charity was in Cullinan but not in Cullinan Care and Rehabilitation Center. In Anchor, he was at Anchor that is in the premises of Cullinan.

ADV. NIKKI STEIN: Okay, um... Okay, Mrs. Ndhlovu, taking us back, you weren't there in December 2016, but you spoke to Kevin a week later to say Charity was not in Cullinan?

MAHLODI DAPHNEY NDLOVU: During the visitation of the family I was not present because as far as I can remember, the family came on the 16th we were not on duty.

ARBITRATOR JUSTICE MOSENEKE: But answer the question; did you tell them, did you tell Charity's family that she was not at Cullinan?

MAHLODI DAPHNEY NDLOVU: We did tell the family before a patient can be transferred to Anchor.

ARBITRATOR JUSTICE MOSENEKE: No. We are talking of the day of the visit.

MAHLODI DAPHNEY NDLOVU: The day of the visit I was not there, Judge.

ARBITRATOR JUSTICE MOSENEKE: It was put to you that a call was made to you and you advised that Charity was not at, Miss Ratsoso was not at Cullinan. Did you remember that? Just listen to the question carefully and try and grapple with it with the least detail. Yes, Miss Charity Ratsoso, I see her name on page 7.

MAHLODI DAPHNEY NDLOVU: I received a call from one of the nursing staff that were asking if Charity had been discharged somewhere. Then, I said yes that Charity has been discharged to Anchor. The following up with the family it was not to inform them for the first time. I was telling them that we did call you to inform you that Charity is being discharged to Anchor. So Charity is no longer in Cullinan, he is indeed discharged to Anchor.

ARBITRATOR JUSTICE MOSENEKE: Thank you, Counsel.

ADV. NIKKI STEIN: Perhaps, Mrs. Ndhlovu, I can put to you the version of Mrs. Ratsoso and ask you to respond to that. Mrs. Ratsoso, will testify that a week after Kevin visited Cullinan, you phoned him to say that Charity was still missing and a week after that you told the family that you would like to visit them at their house. Mrs. Malasa then came to visit them at their house in January 2017 and informed the family that Charity had in fact passed away on the 11th of July 2016. What is your response to that, Mrs. Ndhlovu?

MAHLODI DAPHNEY NDLOVU: Okay, Council.

ARBITRATOR JUSTICE MOSENEKE: Did you hear what Council put to you?

MAHLODI DAPHNEY NDLOVU: Yes, yes, I clearly heard the question, Judge.

ARBITRATOR JUSTICE MOSENEKE: You are a little animated Mrs. Listen, the purpose of what the Counsel has done is to tell you what the family will testify and the

reason is to try get your responses on each of their version. So, you hear what they said happened and you have got to respond and say what you know to have happened. Okay? Just reduce the detail and try and engage with what was put to you.

MAHLODI DAPHNEY NDLOVU: In front of me Judge and Counsel, I do have report that I have written on the day of my visited the family. Can I read the report for you, Council?

ARBITRATOR JUSTICE MOSENEKE: Before you do that, certain specific things have been put to you, all that it means is Counsel is trying to get your response to each of those elements. First part was you phoning the family and saying you want to come and see them sometime and that Charity is still missing. The second part is when the acting CEO Mrs. Malasa went to the house to say that she has passed on. Just respond to each of those and then you can go to you report.

MAHLODI DAPHNEY NDLOVU: Counsel, Charity Rasoso was admitted in our center on the 12th of May 2016. He was then discharged to Anchor on the 23rd 06 2016. Then on the 28th

ARBITRATOR JUSTICE MOSENEKE: Transferred to Anchor when, on the...

MAHLODI DAPHNEY NDLOVU: On the 23rd...

ARBITRATOR JUSTICE MOSENEKE: Thank you

MAHLODI DAPHNEY NDLOVU: On the 28th

ARBITRATOR JUSTICE MOSENEKE: That's the 23rd of the 5th month 2016?

ADV. NIKKI STEIN: I think it is June, Justice.

MAHLODI DAPHNEY NDLOVU: Yes, 06 is June. On the 28th of June 2016, the the Department Of Social Work, my, my, my department informed the family, Kevin about the discharge of Charity.

ARBITRATOR JUSTICE MOSENEKE: Yes, you have answered the question of the second part, yes.

MAHLODI DAPHNEY NDLOVU: With the, with the missing of Ratsoso, I now nothing about the information, Council.

ARBITRATOR JUSTICE MOSENEKE: Yes, in other words, you never told Kevin that she is missing. We understand that. Then your CEO Miss Malaza, went to the family in January to tell them that she had passed on. That's the other part you have to respond to. Do you know anything about that?

MAHLODI DAPHNEY NDLOVU: Judge, I I I I trying to check again. On the 16th, remember Council I told you the family came on the 16th I've noted here received a call on the 16th December 2016 from Nursing Staff, Mr. Patsha saying that the family are in the premises looking for Charity. I spoke to Mr. Patsha and requested Mr. Patsha to ask the family to leave their contact details so that I can call them on the 19th. That was my request. I didn't say anything about the missing of Rasoso, I didn't tell the family on the 19th about Charity being transferred to Anchor. Then on the 19th, I went, I personally went to Anchor, they were having two wards, 1A and ward 1B. Cause I knew that family is awaiting for my response about Charity. I went to the ward to check because I know the patient is being discharged to ANCHOR so that I can give information, so I can give information to the family about charity. I went to the ward when I arrived at the ward I asked Dorothy the Manager, of ANCHOR about Charity. Then Dorothy said she doesn't know Charity. Then I said, 'You know what the family is looking for this person'. Then she said, Daphne will you please assist me in tracing the whereabouts of Charity? I even went back to my office to take a list of patients that were discharged on the 23rd of June to Dorothy, to show him, to show her, that Mam on this date we discharged Charity to your care. Then on the 20th...

ARBITRATOR JUSTICE MOSENEKE: Did you inform Kevin of the difficulty, there was a difficulty of tracing Charity's presents?

MAHLODI DAPHNEY NDLOVU: I, I, I, I, told, I, I, never went back to the family, to call the family again. I told Dorothy that, Mam, this is your baby. The patient has been discharged into your care, so please, this other numbers, contact the family and give the family information about the whereabouts of Charity. I left the matter with Dorothy. Then on the 20th of December 2016, I contacted Dorothy again because she didn't get back to me, I contacted Dorothy to check whether she did contact the family about the whereabouts of Charity. Then Dorothy said, she said never called the family. I went to the CEO, to tell the CEO that we have discharged, so and so to Anchor and it seems that the family now is looking for the patient. I have communicated the matter with Dorothy and Dorothy didn't give me feedback about the whereabouts of Charity.

ARBITRATOR JUSTICE MOSENEKE: Well, let's cut to the chase. Did you ever see Charity again before the family where informed that she has passed on?

MAHLODI DAPHNEY NDLOVU: No, no...

ARBITRATOR JUSTICE MOSENEKE: That should invite a short answer. Did you ever see Miss Ratsoso again...

MAHLODI DAPHNEY NDLOVU: Mr., its Mr.....

ARBITRATOR JUSTICE MOSENEKE: Mr.....

MAHLODI DAPHNEY NDLOVU: Charity Ratsoso, is a male... is a male.

ARBITRATOR JUSTICE MOSENEKE: Oh, it's a male? Okay, did you see,... Thank you for correcting me. Did you see Mr. Ratsoso again? Any time before the family were informed that he had passed on?

MAHLODI DAPHNEY NDLOVU: No, Judge.

ARBITRATOR JUSTICE MOSENEKE: Council, I think you can proceed.

ADV. NIKKI STEIN: Thank you, Justice.

ARBITRATOR JUSTICE MOSENEKE: It took some time but we got there.

ADV. NIKKI STEIN: We got there. If I can just confirm a few details about Charity. You didn't go Anchor between June 2016 and December 2016. Is that correct?

MAHLODI DAPHNEY NDLOVU: Sometimes I was, I went to Anchor during the cause of December, June, during the course of June 2016 and December 2016. Because, my reason to go there I was giving Dorothy the ID books, the manager of Anchor the id books of the patients.

ADV. NIKKI STEIN: And you didn't see Charity, at Anchor, when you went there, to speak to Dorothy?

MAHLODI DAPHNEY NDLOVU: The other time, I went there I saw him.

ARBITRATOR JUSTICE MOSENEKE: Don't repeat the question Counsel It's a bit of a repetition isn't it? Because the answer, to that, is no. We know the answer. She never did. Very well

ADV. NIKKI STEIN: Thank you very much.

MAHLODI DAPHNEY NDLOVU: No, Judge. After Charity has been admitted to Anchor, the time I went to Anchor to do some logistics, Charity was there. But after reports, but after communicating with Dorothy about the tracing of Charity, Charity was not in Anchor. That is what I am saying.

ARBITRATOR JUSTICE MOSENEKE: Okay. She was there some time then not there any longer.

MAHLODI DAPHNEY NDLOVU: Yes, yes.

ARBITRATOR JUSTICE MOSENEKE: But from the time... you missed her till the time of her death, you never saw her?

MAHLODI DAPHNEY NDLOVU: No, Judge.

ARBITRATOR JUSTICE MOSENEKE: Ja, that's your answer. Very well. Council shall we go ahead?

ADV. NIKKI STEIN: Thank you Justice. Um, I'd like to move on to another patient, you referred to in your examination and Chief Joseph Gumede, and we going to hear later from Ntombi (44:38). If you could please turn to, it's in the same file 11. To page 3912, just to refresh your memory, if it is necessary.

MAHLODI DAPHNEY NDLOVU: Counsel can we please finish with Charity because with Charity, there are some other things we mentioned about me down, and they are not correct....

ARBITRATOR JUSTICE MOSENEKE: Well you got to look at this direction and ask me, man. If you want to say more things, that you are not being asked. What else do you want to say?

MAHLODI DAPHNEY NDLOVU: She said I went, Council said I went to the family to tell the family that Charity is missing. The only day I did went to the family was on the 20th of December, going to check with the family as I was instructed to do so. To check with the family, that um not necessarily to check, to give the family information that after inquiring about the whereabouts of Charity. There is... there were some tracings that happened within our office

ARBITRATOR JUSTICE MOSENEKE: I see, let's do it this way. Did you go to Mr. Ratsoso's family?

MAHLODI DAPHNEY NDLOVU: Yes, I did.

ARBITRATOR JUSTICE MOSENEKE: What did you tell them?

MAHLODI DAPHNEY NDLOVU: When I got there I told the family that we went to Mamelodi with Sophiso (46:25) Siphiso (46:28) is the care giver that was working closely with Charity Ratsoso. Cause he was involved in this matter because he is the one who took the patient to Mamelodi hospital. So I went with...

ARBITRATOR JUSTICE MOSENEKE: Let's try and cut the detail, let's say what was the call of the message for the family? What did you come to tell the family?

MAHLODI DAPHNEY NDLOVU: To inform them that there is a patient body in Mamelodi hospital, who died on this date and the patient was admitted as unknown in Mamelodi hospital. So...

ARBITRATOR JUSTICE MOSENEKE: And was that patient Charity Rasoso?

MAHLODI DAPHNEY NDLOVU: I was not sure, even today I am not sure. I requested the family to meet with me at Mamelodi so we can identify if whether the patient body is Charity or not. Even now, I am not sure if the body that was in Mamelodi admitted from Anchor, if it was Charity or not.

ARBITRATOR JUSTICE MOSENEKE: You see we have to be careful that you, and me, and all of us not to drown in detail. The purpose of the things put to you by Council, ultimately is going to show that there wasn't always adequate communication with families. They would often hear about their loved ones, ones they were dead. That is the core-thing we are going to, Mama. It is not to show that you are untruthful or you didn't do your work. It is to try and examine whether there was the necessary humanity in contacting the family's in making sure that they don't only hear about their loved ones they are deceased. Do you want to say anything about that? That is really what we are about. And not about the detail.

MAHLODI DAPHNEY NDLOVU: Okay, I understand, Judge.

ARBITRATOR JUSTICE MOSENEKE: You do follow that hey? Okay, Mam thanks. And they still not diminishing what you have done. If you ask me what I think, I will tell you at the end here. So I'm not diminishing your role at all as a social worker. But it is important to just listen to the question and try and get to the core that is being put to you. Thank you, Council.

ADV. NIKKI STEIN: Thank you Justice. Mrs. Ndhlovu, we spoke earlier about Joseph Gumede and you indicated in your evidence and chief that you intervened in this case on the instruction of Mrs. Malaza.

MAHLODI DAPHNEY NDLOVU: Yes counsel.

ADV. NIKKI STEIN: When did Mrs. Malaza instruct you to intervene?

MAHLODI DAPHNEY NDLOVU: With the case of Gumede, it was this year... I left my diary... but it was this year...no, it was 2016.

ADV. NIKKI STEIN: Okay, maybe I can frame the question a bit differently if you can just give me a moment. Mrs. Ndhlovu, Joseph passed away on the 24th of July 2016. Did Mrs. Malaza ask you to intervene before or after his passing?

MAHLODI DAPHNEY NDLOVU: It was after, Ma'am. And Joseph Gumede was an Anchor patient also.

ADV. NIKKI STEIN: Okay. When she comes to testify later or later on this week Mrs. Dladla will tell us that she went from pillar to post to look for Joseph and eventually found his name on a list on 21st of January 2017. And it was at that stage that you intervened and phoned her to tell her to come to her house and talk to her. Is that correct?

MAHLODI DAPHNEY NDLOVU: It is correct, I called her with the instruction from Frieda Sanelo (50:55) and Dr Lebertha (50:59) they called me in the morning, and later I called the family. Because they are the ones of told me that the family of Gumede where looking for him, Gumede. It seems that Gumede was at Anchor. Then that was when I intervened through the instruction.

ADV. NIKKI STEIN: Okay. And when you spoke to Mrs. Ndladla you said you would come to her house to talk to her. Is that right?

MAHLODI DAPHNEY NDLOVU: It is correct, council.

ADV. NIKKI STEIN: You went to her house on 10th of February 2017. Is that correct?

MAHLODI DAPHNEY NDLOVU: I don't remember the date but indeed I went to her house.

ADV. NIKKI STEIN: So it was plus minus 10 days or 2 weeks since you spoke to her on the phone?

MAHLODI DAPHNEY NDLOVU: Ten days...No it was not 10 days. We talking about Joseph Gumede?

ADV. NIKKI STEIN: Yes. That is right.

MAHLODI DAPHNEY NDLOVU: It was not ten days. Maybe it can be three, three to four days. Because I apologized, I made an appointment with Mrs. Dladla (52:02) Mam today I was supposed to come and meet with you but I do have some other commitments. I do apologies to the family.

ADV. NIKKI STEIN: Okay. And when you did manage to go and talk to the family that is when you informed them that Joseph had passed away?

MAHLODI DAPHNEY NDLOVU: Yes council.

ARBITRATOR JUSTICE MOSENEKE: But he had died in July already, had he not?

ADV. NIKKI STEIN: That is correct Justice.

ARBITRATOR JUSTICE MOSENEKE: And the family was informed July 2016, and the family was informed in January 2017?

ADV. NIKKI STEIN: February, our clients version is the family was informed on the 10th of February 2017.

ARBITRATOR JUSTICE MOSENEKE: What do you say to that? Just for the facts, died in July that is an obvious dependent fact 24 July 2016 and the family was informed in January 2017 of the death. Does it sound right?

MAHLODI DAPHNEY NDLOVU: No, it doesn't sound right, Judge. If this message had to come to me that my brother of my husband died 5 to 6 months ago, I will be very furious with this person.

ARBITRATOR JUSTICE MOSENEKE: Yes, but is it correct on the facts here that you visited the family on February 2017 and he died 24th July 2016?

MAHLODI DAPHNEY NDLOVU: In this case it is correct. It is just that I don't have my days, but I remember telling the family that the patient passed on a long time ago. It is correct.

ARBITRATOR JUSTICE MOSENEKE: Do you know why there was that delay?

MAHLODI DAPHNEY NDLOVU: The patient was placed in Anchor, it was an admission from Life Esidimeni straight to Anchor. Joseph Gumede, I don't even know him with my eyes.

ARBITRATOR JUSTICE MOSENEKE: So you say he was not in your... line of function or your territory. Yours was to convey the sad news. Council.

MAHLODI DAPHNEY NDLOVU: Yes, I was asked to do that.

ADV. NIKKI STEIN: You also did tell the family, Mrs. Ndhlovu, that you were arranging or you had arranged that the post mortem be conducted? Is that correct?

MAHLODI DAPHNEY NDLOVU: With the post mortem I did not say anything about the post mortem because the patient was not Cullinan's patient.

ARBITRATOR JUSTICE MOSENEKE: Was the patient buried when you went to inform the family, or not?

MAHLODI DAPHNEY NDLOVU: The body was still at Mamelodi Hospital because the day the family came to fetch the body, I went to give them support. I was with them.

ARBITRATOR JUSTICE MOSENEKE: I see, you may continue Council.

ADV. NIKKI STEIN: Thank you, I'm going to move on Mrs. Ndhlovu to Mrs. Anna Nthembo (55:15) and in that regard I would like you to pick up file 9 of the files that are next to you.

ARBITRATOR JUSTICE MOSENEKE: Before you get to file 9 one moment. This must have been terrible news for the family isn't it?

MAHLODI DAPHNEY NDLOVU: Yes, yes indeed it was...the lady just went out. She said to me, 'Sissy, I will kill you right now' and I said Mamma, don't kill the messenger. I was sent to deliver the message.

ARBITRATOR JUSTICE MOSENEKE: This was the first time the family had heard that the patient had passed on?

MAHLODI DAPHNEY NDLOVU: Yes, yes, Judge.

ARBITRATOR JUSTICE MOSENEKE: And the family was deeply upset, was it?

MAHLODI DAPHNEY NDLOVU: They were very, they were very upset. In the end as I was explaining to them that this patient, I don't know him. He was admitted in Anchor, that's when they seemed to calm down and turned to me and said, you know what Daphne, thank you so much for coming and breaking the bad news to us.

ARBITRATOR JUSTICE MOSENEKE: Has Mr. Gumede in the meantime been buried? Has he found a resting place?

MAHLODI DAPHNEY NDLOVU: According to the family, as I was checking with them, Gumede has been laid to rest.

ARBITRATOR JUSTICE MOSENEKE: Council

ADV. NIKKI STEIN: Thank you Justice. If I can ask you, Mrs. Ndhlovu to please turn to page 2988, of file 9. This is an affidavit from Anna Nthembo (57:30) who lost her sister,(57:34), in the Marathon Project. (57:39) was transferred to Cullinan without her medical files. Is that correct?

MAHLODI DAPHNEY NDLOVU: (57:42) With, without... Let me check our admission list cause the patients that came ...

ARBITRATOR JUSTICE MOSENEKE: Are you looking at the big schedule are you?

MAHLODI DAPHNEY NDLOVU: Yes.

ARBITRATOR JUSTICE MOSENEKE: Thank you.

ADV. NIKKI STEIN: Mrs. Ndhlovu, there is a picture of (58:22) ID document on page 2994 if that would assist you.

MAHLODI DAPHNEY NDLOVU: No, I can clearly remember or recognize the face but I just want to check the date of admission for Mrs. Shabalala(58:41) Is it Triefina (58:41)Shabalala, is it (58:46)?

ADV. NIKKI STEIN: (58:51) Shabalala

MAHLODI DAPHNEY NDLOVU: Okay, sorry.

ADV. NIKKI STEIN: I see there is in fact a discrepancy between the identity document, its Shabalala, S H A

MAHLODI DAPHNEY NDLOVU: Alright, okay Council. Busisiwe Shabalala was...

ARBITRATOR JUSTICE MOSENEKE: Where is this on the schedule?

MAHLODI DAPHNEY NDLOVU: On page 4, sorry Judge of our spreadsheet. Busisiwe Shabalala was number 82 on our list, was brought on the 23rd of June 2016. Most of the patients that were brought on the 23rd of June they were not having a medical records prescriptions or medication.

ADV. NIKKI STEIN: And she died within a month, of admission, isn't it?

MAHLODI DAPHNEY NDLOVU: Yes judge, I am not sure if she is one of the patients who did not have medical records or medication. I am not sure.

ADV. NIKKI STEIN: Okay, but you have testified Mrs. Ndhlovu that many patients who arrived at Cullinan, that they did not have their medical records with them.

MAHLODI DAPHNEY NDLOVU: Yes Council

ADV. NIKKI STEIN: Thank you. On the 25th of July 2016 you called Mrs. Mntembo(1:00:30) to inform her that Busisiwe had passed away. Is that correct?

MAHLODI DAPHNEY NDLOVU: I don't remember the date but I communicated with the family, yes.

ADV. NIKKI STEIN: And during that phone call you said to Mrs. Nthembo that she should come and take her sisters body, because the mortuary was full, there is no place in the mortuary. Is that correct?

MAHLODI DAPHNEY NDLOVU: That information is not correct what I said to the family is that, ' Ma'am could you please come and identify, first the patient, then we can take it from there.' With the storage, storage I don't remember if it was full or not, but we only have 3 storage's in our institution. We can only accommodate 3 corpses in the institution. And council, by then we are having plus minus 267 patients in the institution.

ADV. NIKKI STEIN: And there was only space for 3 deceased bodies in the mortuary?

MAHLODI DAPHNEY NDLOVU: 3 storage's, we only have 3 storage's. But I don't remember if all the storage's were full. I don't remember, but what I can remember is I do told them we don't have, I told them on arrival that we don't have enough storage in the institution. But when I called them I asked them to come and identify first, then we can take it from there.

ADV. NIKKI STEIN: Okay. And they arrived to identify. I will like you to turn Mrs. Ndhlovu to page 2991. Which part of Mrs. Nthembo's affidavit? And I'm just going to read a portion from the top of the page for you. 'I did not see inside the mortuary, I was too stressed but I could see that it was a very small space and it was not refrigerated. I told Daphney that I would not be able to identify (1:02:48) body because I was stressed, and she said that it is not her problem if I took the wrong body. The undertaker assisted me to identify (01:02:59). Can you respond to these allegations?

MAHLODI DAPHNEY NDLOVU: Yes, yes. I can respond, Council. Council, as from now everybody knows I am a social worker. I am working and I am aware of the social wellbeing, and the emotional wellbeing of the community. I cannot say this word to the families. If we have death in the institution the first person to be called has to come and give the family counseling, support the family, comfort the family, as a social worker, I don't think these words would come from my mouth.

ADV. NIKKI STEIN: So what you are saying Mrs. Ndhlovu, is that you will not ordinarily say these words to Mrs. Mthembo?

MAHLODI DAPHNEY NDLOVU: I didn't say this kind of words to Mrs. Mthembu.

ADV. NIKKI STEIN: But you don't remember the exact content of your conversation on that day?

MAHLODI DAPHNEY NDLOVU: I, I still remember, I still remember she told me then I told her, that Ma'am lets go to the mortuary. After breaking the news, I said lets go down to the mortuary. Then she said, 'Daphney, I'm afraid'. Then I said Ma'am do you know if you can take a wrong body then it is going to be my problem. So it is just going to be better if you can gain strength and we go and you identify the body. Cause I didn't want, that thing of calling a family for somebody that isn't theirs. That is why I asked and requested Mrs. Mthembo to be strong. So that she can identify her sister.

ADV. NIKKI STEIN: I'd like you, Mrs. Ndhlovu to turn to page 3003, this is the death notice of Busisiwe Shabalala. And you will see half way down the page, paragraph 77. The cause of death is listed as Hypothermia caused by severe dehydration.

MAHLODI DAPHNEY NDLOVU: I can see that council.

ADV. NIKKI STEIN: I'd like to ask you some questions about the environment at Cullinan, if I may. How many meals do the mental health users receive on a daily basis?

MAHLODI DAPHNEY NDLOVU: In the morning,... its 4 meals. In the morning they get their breakfast, then at round 11 is there lunch time...

Stein: I'm sorry to interrupt you Mrs. Ndhlovu, but perhaps you can tell us what they had for breakfast, what they had for lunch? What they had for each meal, what they ate for each meal.

MAHLODI DAPHNEY NDLOVU: When I passed through the wards, ne..In the morning before I can get to work they are early morning tea. I don't know what they get. But

around 8 o'clock its tea, tea, bread, oats if its porridge then for lunch they get full meal, full course meal composed of vegetable, if there's starch then, then there is protein. Then in the afternoon they do have breakfast, not breakfast they do have tea in the afternoon before I can leave work around 4 they gathered in the kitchen to have something to eat. Then in the evening I don't know what time they getting but they are getting around 8 if I'm not mistaken.

Stein: And you don't know what the contents are of those meals, Mrs. Ndhlovu?

MAHLODI DAPHNEY NDLOVU: In the evening I cannot say cause I'll be away from the institution, but during the day I usually see their food. I'll usually see them on the way to the wards.

ADV. NIKKI STEIN: And you testified earlier that there was plus minus 267 health care users at Cullinan. And that Cullinan was licensed to take 150 mental health care users. And so I would like you to respond, Mrs. Ndhlovu to this proposition, because there was almost double the number of patients that there should have been that there wasn't enough food and water for all these patients.

MAHLODI DAPHNEY NDLOVU: No, no. There was food, there was water, for the patients, Councilor. After receiving these many patients we didn't experience, we didn't experience shortage of food for the patients we didn't experience that.

ADV. NIKKI STEIN: Can you perhaps assist us with a link Mrs. Ndhlovu between this situation and the record of severe dehydration in Basiswe's death notice.

MAHLODI DAPHNEY NDLOVU: This one, Council I think may be nursing will be the relevant people to answer it. Because in there I am not giving medication, I'm not giving food, the nurses might...

ARBITRATOR JUSTICE MOSENEKE: What is Hypothermia, what is Hypothermia?

MAHLODI DAPHNEY NDLOVU: Hypothermia, Judge, I also don't know it Judge. I am a social worker, I am not familiar with this terms.

ARBITRATOR JUSTICE MOSENEKE: What is severe dehydration?

MAHLODI DAPHNEY NDLOVU: According to my knowledge if we are talking about dehydration is when someone is not getting enough water.

ARBITRATOR JUSTICE MOSENEKE: And of foods that would contain liquids.

MAHLODI DAPHNEY NDLOVU: Yes, Judge.

ARBITRATOR JUSTICE MOSENEKE: Isn't it?

MAHLODI DAPHNEY NDLOVU: Yes Judge.

ARBITRATOR JUSTICE MOSENEKE: So, if we either don't get water or we don't get food that contains liquid would that lead to severe dehydration? You see, all that Council is putting to you, she doesn't want you to be a medical expert. She's saying to you, how do we draw the line between death through dehydration, on the one end and all the food that was available at the institution. That's the core-thing really. Aside, all the detail, how does one explain that? And you were one of the caregivers, professional caregivers there. What's your response?

MAHLODI DAPHNEY NDLOVU: My response, Judge to this one as I have already mentioned. To me it seems as if this patient was not getting enough water. But maybe the doctor...

ARBITRATOR JUSTICE MOSENEKE: Or food with liquid content.

MAHLODI DAPHNEY NDLOVU: Yes, Judge. But maybe the doctor who examined the patient can give more explanation than me.

ARBITRATOR JUSTICE MOSENEKE: Were there instances of shortage of food? At the institution, that you became aware of?

MAHLODI DAPHNEY NDLOVU: No, not at all Judge. We didn't experience shortage of water in the institution nor shortage of food in the institution, that one I can confirm.

ARBITRATOR JUSTICE MOSENEKE: And I notice this other patient was born in 1964. If you look at her identity number.

MAHLODI DAPHNEY NDLOVU: Yes, Judge.

ARBITRATOR JUSTICE MOSENEKE: And why brought to Cullinan when the patient is from Soweto. I can see from the affidavit this person from Zola, in Soweto who would have been in Wayverley or Randfontein nearer to Soweto. Do you know why it will be good for the patient to be moved to Cullinan? Further away from family.

MAHLODI DAPHNEY NDLOVU: Judge these patients when they were discharged from Life Esidimeni it seems as if the people who were and were discharging them, didn't consider the location of the patients. That one I can acknowledge. Cause more of our patients are coming from South. (01:13:37) Brakpan, Soweto. More of our patients are coming from this side of South and Johannesburg.

ARBITRATOR JUSTICE MOSENEKE: And they were properly and more conveniently housed and taken care of at Esidimeni isn't it? Near their homes.

MAHLODI DAPHNEY NDLOVU: Yes, Judge. That is why I am saying that the criteria they have used to discharge the patient, they didn't consider their location. According to my perception.

ARBITRATOR JUSTICE MOSENEKE: Mr. Ratsoso survived for a month after the discharge. Mr. Joseph Gumede, how long was he with you before he died?

MAHLODI DAPHNEY NDLOVU: Mr. Gumede, if I can recall well, it was a straight um discharge from Life Mindlessness to Anchor. If I can recall well.

ARBITRATOR JUSTICE MOSENEKE: You see he died on the 1st May 2016. That's pretty close to the transfer, isn't it? Let's look at the schedule... Can you or Council find his name on exhibit ELH11?

ADV. NIKKI STEIN: I am looking at the schedule... Justice the report entitled Cullinan Care and Rehabilitation Center. on page 23, the second last entry indicates that Joseph Gumede was admitted straight from Life Esidimeni to Anchor.

ARBITRATOR JUSTICE MOSENEKE: Admitted when? On page 23, Council

ADV. NIKKI STEIN: It doesn't have a date...

ARBITRATOR JUSTICE MOSENEKE: I can see that...what 24/7/2016? What date is that?

ADV. NIKKI STEIN: As I understand this Justice, if I can just check...

MAHLODI DAPHNEY NDLOVU: It's the date of death.

ADV. NIKKI STEIN: That was the date of death, yes.

ARBITRATOR JUSTICE MOSENEKE: So the affidavit has a different date from that one? The affidavit says 1 May 2016.

ADV. NIKKI STEIN: I think we talking about different deceased here, Justice. So the affidavit of Anna Nthembo who refers to (01:17:23)

ARBITRATOR JUSTICE MOSENEKE: Where is (01:17:28) affidavit?

ADV. NIKKI STEIN: 2988 is the affidavit of Busisiwe's sister, Mrs. Nthembo.

ARBITRATOR JUSTICE MOSENEKE: I am just exploring the... I've got that 25 July, thank you. The possibility of somebody being admitted to an institution, within a month or two they died of the dehydration. I'm just trying to work out, how does that happen? Do you have an idea; can you help us understand that?

MAHLODI DAPHNEY NDLOVU: In case of Busisiwe, is it Busisiwe? Cause if we talking about Busisiwe, she's the one that was admitted on 23/06/2016. And I have already mentioned that some of the patients that came on the 23rd of June 2016 were not having their medical records nor their medication with them. I am not trying to justify Cullinan, but maybe, might be Busisiwe might be one of them who came without medical records and prescription medication.

ADV. NIKKI STEIN: Mrs., Ndhlovu I'd like, I'd like to put to you, and Busisiwe's death had little to do with medication. If I can take you back to page 3003. We've spoken about severe dehydration and we have spoken about a possible lack of water or food containing water and the immediate cause of death of Hypothermia, which appears to be related to winter conditions and insufficient warmth for the patients. Can you respond to that?

MAHLODI DAPHNEY NDLOVU: Council. If we talking about Busisiwe, again. Busisiwe is the patient that came on the 23rd June 2016 of which, I might not say, she came without medication. Maybe. She can be one who came without medication and medical records.

ADV. NIKKI STEIN: My proposition to you is that the severe dehydration and the hypothermia recorded on the death notice had little or nothing to do with lack of medical records?

MAHLODI DAPHNEY NDLOVU: I have already indicated in our institution we never experienced not having water or food, for the patients. So, this one... I don't want to defend myself, I don't want to defend the institution, I cannot answer this one. I don't know.

ADV. NIKKI STEIN: Okay, thank you, Mrs. Ndlovu. Justice, I have one more set of questions to ask Mrs. Ndhlovu. I see that it is 1h30 I'll be guided by you as to ask them now or after the lunch adjournment.

ARBITRATOR JUSTICE MOSENEKE: It's a set of questions, so is it a question?

ADV. NIKKI STEIN: It's not a question. It will likely take longer than a few minutes, Justice.

ARBITRATOR JUSTICE MOSENEKE: Now then, then certainly will take adjournment now. I (01:22:16) who else will be asking you questions after this. But Council will have a few questions followed by more questions from other Advocates. I hope to help (01:22:33) but thank you for being here and being available after lunch. We going to adjourn now until 2h30. An hour, 1h30 to 2h30.

We are adjourned.

SESSION 3

Arbitrator (ARBITRATOR JUSTICE MOSENEKE): You are still under your previous oath and there will be further questions put to you.

ADV. NIKKI STEIN: Thank you Justice, Mrs Ndlovu I will like to refer you to the affidavit of Mrs Jabulile Faswayo on page 9 and it the page 3201, I will actually take you to page 3219 to start off with, Mrs Ndlovu on page at page 3219 of the record this an affidavit signed by you, is that correct?

MAHLODI DAPHNEY NDLOVU: Yes Counsel.

ADV. NIKKI STEIN: And the affidavit confirms that Mr Sizwe Faswayo's step son was transferred to Kalenon on 23rd of May, 2016?

MAHLODI DAPHNEY NDLOVU Correct Counsel?

ADV. NIKKI STEIN: and then he was transferred to Anchor on the 23rd of June 2016?

MAHLODI DAPHNEY NDLOVU Correct Counsel.

ADV. NIKKI STEIN: If you turn back Mrs Ndlovu, page 2, it is Mrs Fatswayo's affidavit and that is page 3201, Mrs Faswayo states in her affidavit that you inform the family that Sizwe passed away on 3rd of October, 2016 you informed the family that he has passed away, is that correct?

MAHLODI DAPHNEY NDLOVU Yes, I went to the family but I don't recall the date in October.

ADV. NIKKI STEIN: Is it correct Mrs Ndlovu that Sizwe indeed passed away on the 10th of September, 2016?

MAHLODI DAPHNEY NDLOVU That I will not confirm because this is the other case I was also instructed to go and trace the family whereabouts.

ARBITRATOR JUSTICE MOSENEKE): I don't understand that answer, I thought the date is in the Affidavit?

MAHLODI DAPHNEY NDLOVUThe date that is on the affidavit judge is the date is for when the patient was admitted in Kalenon and then date when the patient was discharged to Anchor.

ARBITRATOR JUSTICE MOSENEKE): No look at the first paragraph?

ADV. NIKKI STEIN: Justice are you refereeing to the affidavit of Mrs Ndlovu or that of Mrs Faswayo?

ARBITRATOR JUSTICE MOSENEKE: Yes Mrs Ndlovu, on page 3219.

ADV. NIKKI STEIN: Perhaps if we can refer to the death certificate on page 3218, which will also record the date of death.

ARBITRATOR JUSTICE MOSENEKE: The date given there is 10th of September, 2016 do you agree with that?

MAHLODI DAPHNEY NDLOVU Judge, What I am saying about this case is that this patient was admitted in Kalenon on the 23rd May, 2016 and then later discharged to Anchor, on the 23rd June, 2016, so with the date of death I can not confirm, because that is what I was told when I visited, from the CEO Dorothy when I visited the family that this patient died on this day.

ARBITRATOR JUSTICE MOSENEKE: Your Short answer is that you have no personal knowledge of the death?

MAHLODI DAPHNEY NDLOVU Yes Judge

ADV. NIKKI STEIN: But it in your affidavit on page 3219 of the record.

MAHLODI DAPHNEY NDLOVU The date of death?

ADV. NIKKI STEIN: Correct!

MAHLODI DAPHNEY NDLOVU But I have returned the information that I have received.

ADV. NIKKI STEIN: If I can refer you Mrs Ndlovu, to the end of the first paragraph of your affidavit it says 'Sizwe Faswayo died on the 10th of September, 2016'

ARBITRATOR JUSTICE MOSENEKE): In fairness to the witness you should say to the witness that according to Anchor NGOs Manager, because it is not in personal knowledge

ADV. NIKKI STEIN: Thank you Justice

MAHLODI DAPHNEY NDLOVU confirm that Counsel that according to Anchor NGO Manager Sizwe Faswayo died on the 10th of September,2016, on the affidavit, the last sentence of the last paragraph.

ADV. NIKKI STEIN: You testified to inform the family or you were asked to inform the family but you did so on October 2016?

MAHLODI DAPHNEY NDLOVU confirm that Counsel.

ADV. NIKKI STEIN: Thank you Mrs Ndlovu, I like to read to you from Paragraph 14 of Mrs Faswayo's affidavit, it starts on page 3205, I will read from paragraph 14, she said 'the following day we went to Kalenong hospital there is an area within the hospital that they call Anchor they received us there and we have alots of questions but she was not providing answers that made sense. For example we ask why we are only contacted over three weeks after Sizwe died and she replied that she has been on leave, then as an alternative she said that they did not have medical files for Sizwe and therefore didn't have contact information for us, however we saw two medical files for him one of the files is from Life Esidimeni and the file has Sizwe discharge information in it, Isaac's contact information was also in one of the files, it is unclear to this day why we are not contacted sooner, can you provide us with response on this allegation on this paragraph?

MAHLODI DAPHNEY NDLOVU Thank you Counsel, Counsel I have already indicated that, the patient was discharged to Anchor. The family were informed, Isaac is the one who was informed about the discharge of the patient. In the file we also have our communication with Isaac. And he agreed with us about the discharge of the patient. We do have process note where have noted our communication with Isaac, that is number one. Then number two I intervene on this case due to instruction, I was not on duty for 2 weeks. When I came back I was given this file to intervene with it.

ADV. NIKKI STEIN: Okay. Thank you Mrs Ndlovu, if you will just bear with me Justice. Those are our questions Justice

ARBITRATOR JUSTICE MOSENEKE: Thank you. We are going to move on to Legal Aid South Africa. Legal Aid South Africa, I am not sure which one of you will be Cross-examining, you are welcome back Advocate Crouse?

Adv.Lilla Crouse: Thank you Justice Moseneke, Advocate Skibi will do the cross-examination. Thank you Justice.

ARBITRATOR JUSTICE MOSENEKE): Mr Skibi.

Adv. Nzame Skibi: Thank you Justice. Good afternoon Mrs Ndlovu. You have described you schedule in May that it was hectic during the movement of patients when they were received at Kalenon?

MAHLODI DAPHNEY NDLOVUYes Counsel.It was very very hectic.

Adv. Nzame Skibi: And you have already stated that the capacity of the facility you were receiving to is supposed to house about 150 patients?

MAHLODI DAPHNEY NDLOVUYes Counsel.

Adv. Nzame Skibi: So you exceeded that 150?

MAHLODI DAPHNEY NDLOVU Yes Counsel.

Adv. Nzame Skibi: From the 10th of May to 2016 to the 26th of May, is about about 102 patients that you received from different Life Esidimeni NGOs?

ARBITRATOR JUSTICE MOSENEKE):I think you have to formulate the question very well because I don't follow?

Adv. Nzame Skibi: If I may go bit by bit, between the 10th of May and 26th of May ,2016 from those NGOs collectively, Kalenon received about 102 patients from different Life Esidimeni NGOs?

MAHLODI DAPHNEY NDLOVU did not count. But it can be true because the spreadsheet does specify the number of patients received in Life Esidimeni.

Adv. Nzame Skibi:Before you received patients ...

ARBITRATOR JUSTICE MOSENEKE):How did you calculate Counsel the number 102?

Adv. Nzame Skibi: The number of 102 Justice, let me put it one by one from when they receive them. On the 10th of May you received 26 Life Esidimeni patients, On the 12th of May, 2016 you received 24 Mental Health Care Users from Webel, On the 17th of May, 2016 you received about 11 from Life Esidimeni Webel, on the 19th May, 2016 you received about 19, on the 24th of May, 2016, you receive about 18 Mental Health Care Users from Braamfontein, on the 26th you received about 3 mental health care users from Life Esidimeni and if you add those numbers it should go up to 102, in the Month of May only in 2016.

MAHLODI DAPHNEY NDLOVUIt is 96

Adv. Nzame Skibi: I calculated manually, so I accept that correction. Is there no additional beds which were added in Kalenon to accommodate those patients

MAHLODI DAPHNEY NDLOVU No

Adv. Nzame Skibi: But Kalenon ...CCRC receive those patients despite that there are no additional beds added?

MAHLODI DAPHNEY NDLOVUThe reason we were discharging this number is up to the total but we were discharging and other discharge were our initial patients not Life Esidimeni. The that were in Kalenon, we discharge 73 or 74 patience to Ziyabadinga and there are 74 spaces to receive patients from Life Esidimeni.

Adv. Nzame Skibi: Was this before you received this 96 that you are talking about taking into consideration the dates that I just said to you right now?

MAHLODI DAPHNEY NDLOVU Some of the patients were discharged bef

ore we can go and collect the patients from Life Esidimeni, then the others were discharged in the process. Like MDT members, some went to Life Esidimeni, then the others in the institutions where discharged to NGOs, so that we can accommodate those coming that day.

Adv. Nzame Skibi: You already state that it was hectic when you were receiving this patients?

MAHLODI DAPHNEY NDLOVU Yes it was hectic indeed Counsel, because we were only given 1 day to rest and we were making sure that the ones that we came with are well adjusting, checking their ID book, the medical record, checking their diets, it was indeed very hectic. That little period that we were given on the 11th, we were very busy checking those things, opening the files in the Department and calling the families and so forth.

Adv. Nzame Skibi: Is there no time for you to check which patients gets what type of meal or nutrition etc?

MAHLODI DAPHNEY NDLOVU I have mentioned that we were checking their diets , during the little time that we have. Each person was working under their different department and in my department we were checking the IDs and checking the contacts in order to inform the families, and checking for physical addresses and compiling a list that we have received so and so.

Adv. Nzame Skibi: Is it your testimony that patients in Kalenon there were no problem with feeding and water?

MAHLODI DAPHNEY NDLOVU Yes there were no problem with feeding and water

Adv. Nzame Skibi: You were saying that patients were not treated friendly at Anchor, what do you mean by this?

MAHLODI DAPHNEY NDLOVU never said they were not treated friendly. I said staffs, according to normal service standard of the Mental Health Care they were not of the same standard like the CCRC. We are under the impression that when we take a patient to an NGO, they should have staffs whom are professional who will take care of the Mental care user has to be someone that is a nurse.

Adv. Nzame Skibi: Youself you are full time in Kalenon, and you are not involved with what happened at Emnca, am I correct?

MAHLODI DAPHNEY NDLOVU Yes Counsel.

Adv. Nzame Skibi: So you did not go personally to observe what was happening at EMCA?

MAHLODI DAPHNEY NDLOVU We went there because we were concerned and that is how we were able to discover that the people who were receiving the patients are not the professionals, and it is not like we just discharge them and throw them to Anchor without going to check what is happening and we went there and check and with regards to the ID, I personally went there to give them the ID copies of the patients, and I went there to assist in filing the applications of SASSA Grants.

ARBITRATOR JUSTICE MOSENEKE): Which question are we answering now, please answer the question specifically, so that we can make a progress. Don't provide details until Counsel ask for details?

Adv. Nzame Skibi: In your hectic schedule when did you go to observe what was happening at Anchor, whether everything was in order?

MAHLODI DAPHNEY NDLOVU After discharging the patients to them, some the days we were spending more time in the NGOs, just to observe, during the days that we were not going to Life Esidimeni to fetch patients.

Adv. Nzame Skibi: Were all those patients whom you received at Kalenon, were they transported by a bus or were they vans, which one did you use to bring them in?

MAHLODI DAPHNEY NDLOVU Those we went to fetch we went with a 27 seater bus, but for the ones who came on the 23rd, it was stipulated in the report that they came with an ambulance.

Adv. Nzame Skibi: If you look at page 7 of your report, ELAH9, it refers to patients for the date of the 12th of May, do you see that page 7 paragraph 3 says, 'some MSCU came with their patients with files which contains scanty information which is without medical history, these files are prepared by LE staffs and just handed over with the user, some of the patients came with their ID documents, they were admitted at CCRC'. So the information was not sufficient, so what was missing?

MAHLODI DAPHNEY NDLOVU Some of them do not have medical history

Adv. Nzame Skibi: In this report I am interested in one patient, before I go there. Is it your testimony that the highlighted ones are the ones moved to accommodate the Life Esidimeni patients from Anchor, am I correct?

MAHLODI DAPHNEY NDLOVU Yes, you are correct Counsel

Adv. Nzame Skibi: We have got one patient, Nkosi Sizwe who appears number 18 on the same page, page 7. Is one of the patients who experienced what was happening there but I will go there in a while. I will refer you to, page 7 on exhibit a ELAH 9, put it aside, ELAH11 at page 2 number 17, there is a surname Nkosi at number 17 and

Sizwe the file number and the date of admission which is 12th of May,2016 and date of discharge was which is 26th of April 2017.Do you see that?

MAHLODI DAPHNEY NDLOVU26th2017, this was a discharge from Kalelono Health Care and Rehabilitation Center to Waverlly. After kalenon has takeover services from Siyabadinga and ANCHOR, this patients came back to Kalenon, we re admitted them to Kalenon.

Adv. Nzame Skibi: When was Sizwe Nkosi received back at Kalenong after he had been moved to Anchor?

MAHLODI DAPHNEY NDLOVU In October, 2016,I don't have the specific date?

Adv. Nzame Skibi: When did you receive the back to Kalenon from Emca?Did you receive the patients back with a record?

MAHLODI DAPHNEY NDLOVUThe patients came back with no record, because we were told that Emca is no more functioning, Siyabadinga has also not been functioning for a long time. We did not see anything written in black and white.So since Emca is no longer there, we have to take care of the patients that are from Anchor.

Adv. Nzame Skibi: Do you remember when was Sizwe Nkosi sent to Anchor?

MAHLODI DAPHNEY NDLOVUThe time he was discharged to Anchor?

Nzame Skibi: Let me help you it was on page 7 ELH9 on 23rd of June, 2016, the last paragraph, are you sure that patients were well look after at Kalenon?

MAHLODI DAPHNEY NDLOVUI can confirm that they were well look after.

Adv. Nzame Skibi: You keep on bringing in more patients in large numbers, do you agree that, that compromise the quality of care they were receiving, do you agree with that?

MAHLODI DAPHNEY NDLOVU It is difficult to answer that but as i have already indicated it was very hectic but as regarding food and water, we did not experience food and water shortage in the institution?

Adv. Nzame Skibi: Who was supplying the food there, was it the state of the patients? Was the food made in the institution or ordered from outside?

MAHLODI DAPHNEY NDLOVU The food was ordered from outside but are prepared on site.

Adv. Nzame Skibi: There are some pictures I will like to show you. I have discussed with my learned friend from the state

ARBITRATOR JUSTICE MOSENEKE): I see there are more than one picture, can please give numbers to the pictures and let them be passed to me and can we look at the schedule and give each picture a number, so that each document will have a sequential number.

ADV. TEBOGO HUTAMO: Justice when the numbering is done, I just want to give an indication that there are some documents from the state side and we have followed the sequence of the numbering already in existence and we have ended up at ELAH 22, if the numbering can continue from ELAH 22?

ARBITRATOR JUSTICE MOSENEKE): I am sure your learned friend will be grateful to you for that.

Adv. Nzame Skibi: Justice the first one will be ELAH23, and the second will be ELAH 24 and the third one will be ELAH 25

ARBITRATOR JUSTICE MOSENEKE): Esidimeni Life Arbitration Hearing that is what ELAH means and the number follows, it is quiet uncomplicated but what number do you think we should give to this?

Adv. Nzame Skibi: 23

ARBITRATOR JUSTICE MOSENEKE): Then followed by ELAH 24 and then ELAH 25

Adv. Adila Hassim:Justice Museneke, we understand that there are more than one picture but we are only provided with one?

ARBITRATOR JUSTICE MOSENEKE): Counsel lets do this as Lawyers, to run trials and just observe those basics that are necessary, we are building a record here, so that a a third party must be able to read it and must be intelligible when they read it. You know what they are referring to, that is the reason and for the same reason we have to add the year everytime that we mention the date, it is for eyes other than ourselves who are going to read this as a researchers or any other court that might have to read this and hence we must do it the way Lawyers do it. Build a proper tria; records please. Shall we go, we are told you are handing in three pictures and so let us give it a number first. Please arrange that your colleagues get copies.

Adv. Nzame Skibi: If you look at the pictures ELAH 23-25,the first one ELAH 23,looking at those 3 pictures, and they don't look the same, do you agree?

MAHLODI DAPHNEY NDLOVU will only talk of the 2 that I have because I don't have the 3

Adv. Nzame Skibi:The first one ELAH 23 the patience was at Waverly before he was moved to Kalenon,the second one ELAH 24 the patient was at CCRC and the last one the patience was 10 days after the patient was at Kalenon, the question now is the last

one it was 10 days after the patient was admitted at Kalenon and he looks so thin unlike the time when he was at Waverly, so you agree with me?

MAHLODI DAPHNEY NDLOVU don't agree with you Counsel, because we do have pictures that do not have dates on them.

ARBITRATOR JUSTICE MOSENEKE): Yes that was fair comment by the Witness because Counsel there should have been dates against each picture and you should be putting on record that ELAH ... was taken at what place and on such a date and repeat same on each of the three picture and pose a question about the meaning of the picture, I don't even know whether they are photograph of the same person or different people. And you have to put all those facts on record to determine which institution each patient was taken and when and then test the witness or whether or not the person there is emaciated, should we do that for the sake of all of us?

Adv. Nzame Skibi: Justice we will present evidence that this picture was taken at different time, the first ELAH 23 was at Weber and the second one ELAH 24, was taken when the patient was taken at CCRC and the third one ELAH 25 was taken after 10 days of admission to Kalenon Health Care Center and my submission is that the patient lost weight after ten days at Kalenon, which indicates that he was not properly fed. So Mrs Ndlovu, what is your comment about that?

MAHLODI DAPHNEY NDLOVU am not trying to defend myself but this picture was given to me without dates and remember Sizwe was admitted in Kalenon from LE and spent some days and was discharged to Emca.

Adv. Nzame Skibi: Yes and the observation of the family is that there were no place to play outside

ARBITRATOR JUSTICE MOSENEKE): I think you should deal with the legitimate concern of the witness that the pictures are without dates?

Adv. Nzame Skibi: Well Justice, I cant take it further but we are going to lead evidence regarding this later.I was just giving an opportunity for the witness to comment but I understand the concern.

ARBITRATOR JUSTICE MOSENEKE):You don't have to answer the question Mrs Ndlovu, I think they will lead evidence with it later.Okay, lets proceed.

Adv. Nzame Skibi: According to the observations by the family members of Sizwe Nkosi is to the effect that firstly you first make a comment if you agree or you did not agree?

ARBITRATOR JUSTICE MOSENEKE):Are you talking about Sizwe Faswayo or Sizwe Nkosi?

Adv. Nzame Skibi:It is Sizwe Nkosi Justice. According to the observation of the family members the firmary is being used as the visiting area, any comment about that?Do you agree or disagree?

MAHLODI DAPHNEY NDLOVUAre you talking about visitation of the families of Sizwe?

Adv. Nzame Skibi:Yes!

MAHLODI DAPHNEY NDLOVU This one I can **acknow**ledge that the families are coming to visit.

Adv. Nzame Skibi: Do you agree that infirmary was used as the visiting area?

ARBITRATOR JUSTICE MOSENEKE): Counselor lets formulate the question to have the witness respond?

Adv. Nzame Skibi: According to the observations of one family member that infirmary is being used as a visiting area?

ARBITRATOR JUSTICE MOSENEKE): What is used as a visiting area?

Adv. Nzame Skibi: Yes, infirmary

MAHLODI DAPHNEY NDLOVU beg your pardon there, Infirmary

Adv. Nzame Skibi: A place where patients are being kept.

MAHLODI DAPHNEY NDLOVU According to my information, when this patient was in Kalenon Care and Rehabilitation Center, all the families of the that are visiting in Kalenon Center, we do have a specific place for the family to visit their loved ones but it is up to the family to decide to seat in that room or outside, I totally disagree with that information.

ARBITRATOR JUSTICE MOSENEKE): What is an Infirmary, it is a place where what happens or it is used for what?

Adv. Nzame Skibi: It is a place where the patients with more severe cases are kept

MAHLODI DAPHNEY NDLOVU In Kalenon we don't have a place where very sick person are kept as you are saying, if we do have, there is a place called the sick bay, it is a building called sick bay, that is where we keep our very ill patients but the families are not been placed in that room for visitation, there is a section or room where the families goes to have meeting with their loved ones.

ARBITRATOR JUSTICE MOSENEKE): Are there any further question?

Adv. Nzame Skibi: Also that there is no placeto play outside?

MAHLODI DAPHNEY NDLOVUWe do have a playground and it is a big ground enough for our patients.

Adv. Nzame Skibi: Also what has been observed is that food portion are too small and they do not meet the nutrition requirement, those are other observations of the family members.

MAHLODI DAPHNEY NDLOVUOkay Counsel, with the food apportioning, I think it is the food service department is the one who will answer for that and also may be the dietician can answer for that, because they have been given diets, so I can not answer for that.

Adv. Nzame Skibi:It was also said that there are no linnen

MAHLODI DAPHNEY NDLOVUI can also not answer for that, the relevant people will answer which is the laundry

ARBITRATOR JUSTICE MOSENEKE):In your opinion is there linen for the patients bed?

MAHLODI DAPHNEY NDLOVU During the day the bed will be well prepared and the linen will be there. As far as I know they changes the linen 3 times a day.

ARBITRATOR JUSTICE MOSENEKE): very well Counsel, any further questions?

Adv. Nzame Skibi: Also that the toilet facility, that there is lack of toilet papers, any comment regarding the hygiene side?

MAHLODI DAPHNEY NDLOVUThat one I disagree that place where the family visit their loved ones there is always a cleaners that cleans where they stay and that the

toilet papers are there, because without intellectually ill patients you find that the person is eating some of them cannot take food straight to their mouth so the cleaners then come and clean.

Adv. Nzame Skibi:From your testimony we learnt that some of the patients died at Emca, am I correct?

MAHLODI DAPHNEY NDLOVUYes, you are correct Counsel

Adv. Nzame Skibi:And some of the patients who are moved from Life Esidimeni, also died at Kalenon, is that correct?

MAHLODI DAPHNEY NDLOVUYes that is correct Counsel.

Adv. Nzame Skibi:Those who were found to have passed on they were found in the midst of those who are alive, is that correct?

MAHLODI DAPHNEY NDLOVUThat I disagree because after the body has been certified dead, they remove the body to a specific place. Then after sometime we remove the body to the mortuary.

Adv. Nzame Skibi:Put this way before any personel arrived and the first person who arrived, found the patient who has passed on among those who are alive, am I correct?

MAHLODI DAPHNEY NDLOVUThat one Counsel, I cannot answer for that, I don't have an answer for it and I have never heard of something like that in the institution, this is my first time of hearing it from you.

Adv. Nzame Skibi:But that experience could have been most devastating one, when a patient who is alive is watching another one passing on in front of him with no professional attending to that person, will you agree with me there?

MAHLODI DAPHNEY NDLOVU I agree with you but in our institution I never heard of something like that...

Adv. Nzame Skibi: There was also an observation that you were so restrictive of family members who want to accompany Sizwe, when he was moved from Waverly to Kalenon, not to accompany him?

MAHLODI DAPHNEY NDLOVU Counsel is this information given by the family?

Adv. Nzame Skibi: Yes

MAHLODI DAPHNEY NDLOVU That one I disagree with you and the families, because one of our challenges with our mental Health Care Users is that Most the families they dump them in the facilities. For me to restrict the family, that means I will not be doing justice to the patients. We do have an experience and it is a challenge for us, if families are coming to visit their loved ones we are happy. Because previously with our users, not the Life Esidimeni ones, I can say 30 % of the families are visiting their loved ones

ARBITRATOR JUSTICE MOSENEKE): Lets remember what the question is. Did you refuse the families to accompany Sizwe, and the first questions should have been, were you present when Sizwe was transferred?

MAHLODI DAPHNEY NDLOVU Yes I was present.

ARBITRATOR JUSTICE MOSENEKE): The second question is did you or any of your fellow officials refuse the family to accompany Sizwe when you transferred him from Life Esidimeni to Kalenon, what is the answer to that?

MAHLODI DAPHNEY NDLOVU No judge

Adv. Nzame Skibi: You testified that Anchor is within Kalenon in the same premises

MAHLODI DAPHNEY NDLOVU Yes Counsel.

Adv. Nzame Skibi: So if one of the family members have not been alerted that a next or a different NGO it will be fair enough for him or her to assume that their loved one is in Kalenon?

MAHLODI DAPHNEY NDLOVU I agree with you Counsel

ARBITRATOR JUSTICE MOSENEKE): Let move on. Advocate Groenewald

Adv. Dirk Groenewald: Thank you very much Justice, Mrs Ndlovu, When did you inform the family members that their loved one are been moved from CCRC to Siyabadinga?

MAHLODI DAPHNEY NDLOVU Our very first meeting with the families about the remover of the patience was it was 13th of February, 2016.

ARBITRATOR JUSTICE MOSENEKE): You have answered the question, lets leave it there, if the Counsel want more he will ask you.

Adv. Dirk Groenewald: There was a meeting in May, were you told the families of the patients where you are moving the patients to, is that correct?

MAHLODI DAPHNEY NDLOVU Yes, that is correct Counsel, on the 14th of MAY 2016

Adv. Dirk Groenewald: And the purpose of that meeting is to show the families that the facility is okay and that their loved ones will be take care of and you know that they were not taken care of, do you agree?

MAHLODI DAPHNEY NDLOVU Are you refereeing to the deaths that happened in Ziyabadinga or Anchor

Adv. Dirk Groenewald:.....if I can just refer to the documents named ELAHyou said that Ziyabadinga was closed June 2016.....take steps ...2016....one of the family members was there to represent...then discharge to siyabadinga and reamitted back to ...and finally died at Mamelodi Hospital...you have siyabadinga ...bottom trhere Thabo Montyane died on the 23rd of August 2016...and said that the discharge at...again there on the same column there is Yaku stonme.....satisfactory condition and died at Siyabadinga...the family need clarity on this issue and that....the next time they visites CCRC...can you explain to us when this patients were transferred to CCRC..

MAHLODI DAPHNEY NDLOVU...died in August...with the date ...as it is being indicate here that he died under CCRC.....

Adv. Dirk Groenewald:And the other patience...

MAHLODI DAPHNEY NDLOVUAccording to...we have indicated this information because during this time that the family....they have taken this patience ...this patiencedied in the care of CCRC because CCRC took over in October, but the exact date I don't know

ARBITRATOR JUSTICE MOSENEKE): But the date ...and died at Siyabadinga, does that tally with what you have said?

MAHLODI DAPHNEY NDLOVUWhen we have written like this it means that when we take over that means the patience has died before CCRC took over.

MAHLODI DAPHNEY NDLOVUjust because I don't have the exact date ...were told verbally to take over opatients from Siyabadinga to Anchor

Adv. Dirk Groenewald:Did you ever inform the families and tell them that Siyabandinga is now closed and that we will transfer the patience back to CCRC

MAHLODI DAPHNEY NDLOVU From my office we did not do that...what we were instructed to do is to fill in the forms...some of the patients we did re admit them according to the instructions that we were given

ARBITRATOR JUSTICE MOSENEKE): ..from around May...they died within...from your experience how do you explain that irrespective of whether they were from Life Esidimeni or Siyabadinga, how did all this happen?

MAHLODI DAPHNEY NDLOVU The causes of deaths I can not tell...but I can indicate ...because in the institutions we use to have 3 deaths in a year...because we 2014 we had 1 and 2015 we had 2...

ARBITRATOR JUSTICE MOSENEKE): What had gone so wrong from 2 patients a year and then it came to 10s...what killed this people, I am not asking you as a Doctor but as a professional who works there

MAHLODI DAPHNEY NDLOVU It was also our concerns.....according to my perception

ARBITRATOR JUSTICE MOSENEKE): and they died between May and October and November ...many people died...what do you say causes thisin a late persons observation.....

MAHLODI DAPHNEY NDLOVU According to my perception it may be because they were moved in large numbers

ARBITRATOR JUSTICE MOSENEKE): Were they properly fed?

MAHLODI DAPHNEY NDLOVU Yes

ARBITRATOR JUSTICE MOSENEKE): Were they properly medicated?

MAHLODI DAPHNEY NDLOVU Those who have medication prescription were properly medicated?

ARBITRATOR JUSTICE MOSENEKE): Do they have everything to keep them clean?

MAHLODI DAPHNEY NDLOVUYes

ARBITRATOR JUSTICE MOSENEKE): So the question comes again, why did they die, since they were well fed,well medicated ...and then they diedwhen ordinarily it is only 2 people who use to die in your facility on a yearly basis? Why?

MAHLODI DAPHNEY NDLOVUMost of the patience that died are the same patients that were returned from the NGOs

ARBITRATOR JUSTICE MOSENEKE): ...those that died are the same that were returned from the NGOs, how is that?

MAHLODI DAPHNEY NDLOVU I don't know how to answer it.

Adv. Dirk Groenewald: I like to take you to....you said you also draft this documents.....

MAHLODI DAPHNEY NDLOVU Yes

Adv. Dirk Groenewald:....PART 7, do you have the document...there is the list of 73 individau;l that you trasnfered....this charge date....this is a date that they were transferred to Siyabadinga.....is that the date that CCRC took over the patience again?

MAHLODI DAPHNEY NDLOVU This is the date that this patient were transferred from the NGO and the date that they were received at Kalenon.

Adv. Dirk Groenewald: No clear indications here,...Siyabandiga, I will put to you that when the Siyabadinga patient were ,...what is your response to that?

MAHLODI DAPHNEY NDLOVU I don't know

Adv. Dirk Groenewald: You agree with me that it is highly likely?

MAHLODI DAPHNEY NDLOVU No I don't agree with that statement

MAHLODI DAPHNEY NDLOVU Also Anchor was also housed.....

ARBITRATOR JUSTICE MOSENEKE): Get my question what happened to the patient?

MAHLODI DAPHNEY NDLOVU Services continue

ARBITRATOR JUSTICE MOSENEKE): Did you re-admit them...?

MAHLODI DAPHNEY NDLOVU We have re admitted them.....

ARBITRATOR JUSTICE MOSENEKE): ...Counsel was putting to you that who looked after the patient after they were returned from Siyabadinga or were they left to fend for themselves

MAHLODI DAPHNEY NDLOVU...were assisting the people.....

ARBITRATOR JUSTICE MOSENEKE): Even so that didn't help because they still died.....who is the head of Siyabadinga

MAHLODI DAPHNEY NDLOVUDiana Noyile

ARBITRATOR JUSTICE MOSENEKE): Where is she now ?Do you know where she is now Counsel?

ADV. TEBOGO HUTAMO: As the witness..this morning we found out that they are no more calling them.....

ARBITRATOR JUSTICE MOSENEKE):You heard me saying that this were your neighbours...why don't you know under what circumstance that this people died?

MAHLODI DAPHNEY NDLOVU...we were told by the ...that there was a palisadethat if there is something that we want that we should not go there....what is somebody looking for at Siyabadinga.....even verbal information was given to usi ket communicating with them through their ID and Sassa Cards....

Adv. Dirk Groenewald: Again will take you to document.....Life Esidimeni admission patientsfrom LE, the discharged patients were patients that were stable and does not require.....did you mean that this patients were stable when they went to Siyabadinga.....?

MAHLODI DAPHNEY NDLOVU The patients before going to Siyabadinga were accessed by a Doctor and confirmed stable, so I agree.

Adv. Dirk Groenewald:Do you agree with me that they are stable?

MAHLODI DAPHNEY NDLOVUI agree

Adv. Dirk Groenewald:...on discharge, the following were taken along, discharge review...copy of the discharge form...one month supply of medication.....ELHA11form

May 2016 to June 2016, do you agree? You can confirm that Siyabadinga never received money?

MAHLODI DAPHNEY NDLOVU That information I don't know

ARBITRATOR JUSTICE MOSENEKE): But they look like they were well resourced, the way you would have look after them?

MAHLODI DAPHNEY NDLOVU cannot get access into their budget

ARBITRATOR JUSTICE MOSENEKE): When you went there do they look like they were well resourced?

MAHLODI DAPHNEY NDLOVU Yes in the refrigerator they have meat and vegetable..

ARBITRATOR JUSTICE MOSENEKE): Do you think they are well resourced Mental Health Care Facility?

MAHLODI DAPHNEY NDLOVU According to what we saw on our inspection

Adv. Dirk Groenewald: You don't know if they receive any payment? and can you tell us if they have one month medication for the patients... can you confirm that?

MAHLODI DAPHNEY NDLOVU ...the prescription were written that Diana must go and collect medication of the patients at the clinics.

Adv. Dirk Groenewald: Do you know if she did?

MAHLODI DAPHNEY NDLOVU am not sure

Adv. Dirk Groenewald:receive a lot of support from the community... that the people gave them fridges and there was clearly a need in Siyabadinga.....

MAHLODI DAPHNEY NDLOVU...i don't know of the information you are telling me

ARBITRATOR JUSTICE MOSENEKE): were not Anchor life closed?

MAHLODI DAPHNEY NDLOVU....

ARBITRATOR JUSTICE MOSENEKE): Where were the patients and then they were still in your premises?

MAHLODI DAPHNEY NDLOVU...to assist

Adv. Dirk Groenewald:...CCRC had to look after and care for Le patients that came over, Life Anchor patients and Siyabadinga patients....are you aware of the meeting that took place in JULY 2016, the meeting took place in are you aware....to refresh your memory you can go to page 2771, there was a number of meetings.....minutes of the meetings....into the ...that meeting ...organised labour...there was also meeting with clinical staffs and introduction of the new CEO....ARE you in any of these meetings....or of the executive committee....do you recall any meeting on the 4th of July 2016..?

MAHLODI DAPHNEY NDLOVUThe only meeting I can recall...there is a meeting at the hall...I didn't go to the meeting because it was busy at the office,,....and the only information I got is that the CEO has been suspended and that a new CEO will be appointed soon

Adv. Dirk Groenewald:...this is a meeting that it is confirmed...that there are no resources to work withno proper paper work....your concern can not be ignored and the concern included the following.emergencynon available in the unit....one of the ...the letter from the legalthat is not complying with basic standard ofi put you that this is different from the CCRC that you represent here today?

MAHLODI DAPHNEY NDLOVU was not aware of this information....i don't know this information

Adv. Dirk Groenewald:This information contradict what you are saying?

MAHLODI DAPHNEY NDLOVU don't know about this information...some of the meeting we don't know what is happening in the meetings.....

ARBITRATOR JUSTICE MOSENEKE):to come and help you and look at what is not working there....they agree that the complains are well founded.....Counsel is putting to you that why is it so?

MAHLODI DAPHNEY NDLOVUwe had a stuff in Kalenon....i never knew if there is a meeting in th facility about this... I don't know about this...I was never given this information.....

MAHLODI DAPHNEY NDLOVU...I was never part of this

ARBITRATOR JUSTICE MOSENEKE): Look at page 2781...do you see it, look at the second sentence of the second line. Can you read that out?

MAHLODI DAPHNEY NDLOVU There are problems with NGOs called Siyabadinga...the department need s to take care of them...in order to allow the investigation to go on.....why are you not aware of this dire situation?

ARBITRATOR JUSTICE MOSENEKE): Why were you not aware of thi ?

MAHLODI DAPHNEY NDLOVU I am not aware

Adv. Dirk Groenewald: Two sentences there...this a minutes of the meeting between the clinical staffs ...it was also said to the staffs.....the staffs will be requested to

assist...that do you agree that the word 'suffering' means there is a problem, do you agree?

MAHLODI DAPHNEY NDLOVU Yes I agree

Adv. Dirk Groenewald:And the NGO s....that is now a clear indication that there was a chaos at that point.....they were not care of s they should have been taken care of.....?

MAHLODI DAPHNEY NDLOVURegarding the department where I am working, we are unsder staffed, I am the only social worker there and I am been assisted by only one Auxilliary staffs.....

Adv. Dirk Groenewald: Thank you...basically from May 2016 that they were prohibited from seeing where their loved ones are staying...they had to wait at the treception area before they can see their relatives?

MAHLODI DAPHNEY NDLOVUI agree with that?

Adv. Dirk Groenewald: That the department were busy with crisis management and they were busy trying not for the families to take pictures and

MAHLODI DAPHNEY NDLOVU...the patience were not allowed to go in there because there are families who are taken pictures and the pictures are being posted in the social media and newspapers....

Adv. Dirk Groenewald:...but that instructionwas given?

MAHLODI DAPHNEY NDLOVU Yes

Adv. Dirk Groenewald :Mr Yakustow sister....he had a number of bruises.....they nurses should take him to the hospitals.....she came to see him there...they brought

him on a bed...he had a burn wound, a bruise on his left shoulder....David Mphoku....his lips was unnaturally swollen and had bruises all over his chest....that evidence ...this patience were not properly cared for.....?

MAHLODI DAPHNEY NDLOVU...That counsel I can not answer for it...may be the Nurses on duty can give clear explanation about it

Adv. Dirk Groenewald: Thank you Justice and thank you M'am

ARBITRATOR JUSTICE MOSENEKE): You have one more advocate to ask you question, it is 4:30...how long do you think your examination will be

ADV. TEBOGO HUTAMO:We don't intend to take long.....

ARBITRATOR JUSTICE MOSENEKE): I think you can go on

MAHLODI DAPHNEY NDLOVU...they were active for her to get cash

ARBITRATOR JUSTICE MOSENEKE): Was the cards for her or the patience?

MAHLODI DAPHNEY NDLOVUIt was active cards for the patience to get money

Adv. Dirk Groenewald:.....the ?

MAHLODI DAPHNEY NDLOVUthe grants have been terminated now

ARBITRATOR JUSTICE MOSENEKE): Thank you we will proceed Counsel for the state

ADV. TEBOGO HUTAMO:Good afternoon....when did you qualify as a social worker

MAHLODI DAPHNEY NDLOVU in 2012

ADV. TEBOGO HUTAMO: When were you employed by Katlehong.

MAHLODI DAPHNEY NDLOVUSeptember 2013

ADV. TEBOGO HUTAMO:You have just ...can you give an indications of how many days you are working at this center per week

MAHLODI DAPHNEY NDLOVU I work Monday to Friday but not normal hours

ADV. TEBOGO HUTAMO:Your testimony was that the condition was favourable to the patients?

MAHLODI DAPHNEY NDLOVUYes for the one in Kalenong

ADV. TEBOGO HUTAMO:....at least 3 time in a day and on your observations the users are fed and given food at regular intervals ...can you help us because you said the facility was of assistance to the users...some of the family members are dumping their loved ones at the center, do you remember?

MAHLODI DAPHNEY NDLOVU...there are some who doesn't have family as we speak right now.

ADV. TEBOGO HUTAMO:...you have made mention of that one of the users was never visited for a period of ten years and when you spoke of the challenges of this mental care users, can you tell us thatthe situation of their loved one are not playing their part with regards to visitation.

MAHLODI DAPHNEY NDLOVU ...some patience that were received from LE where we can locate them.. because we don't know where to locate the families....

ADV. TEBOGO HUTAMO: You have just gave an indication that about 30 % of the patients have been visited and 70% not visited, what are your.....

ARBITRATOR JUSTICE MOSENEKE): Let

ADV. TEBOGO HUTAMO: Please explain the split of visitation that has been taking place in the institutions.....

MAHLODI DAPHNEY NDLOVU Admitted in Katehong are not been visited...some families are there but they don't come...and some of them we call to come and take the patience for 1 or 2 days and we facilitate the visit of the families

ADV. TEBOGO HUTAMO: How are you able to come to this visit, do you have a record to know who is been visited and who is not been visited?

(Mahlodi Daphney Ndhlovu) the families are requested at the sick bay to write It is not a challenge for us

ADV. TEBOGO HUTAMO: Is there anyway you keep register in a way to know each visit for each users.....

MAHLODI DAPHNEY NDLOVU Every Monday I go to the Sick bay to know what has happened in the weekend...for our official references

ADV. TEBOGO HUTAMO: that they do visit their families...in that regard what do you consider a reasonable number of visit for a user?

MAHLODI DAPHNEY NDLOVU...it doesn't defer too much.....

ARBITRATOR JUSTICE MOSENEKE): For frequency what do you feel is good enough for a visit

MAHLODI DAPHNEY NDLOVU We will recommend ones a month and twice will be a bonus to us

ADV. TEBOGO HUTAMO:...is there any further role that the family and the loved ones are expected to play in this care of the patients..

MAHLODI DAPHNEY NDLOVU...with their beloved ones in the institution....

ADV. TEBOGO HUTAMO:...Is a month visit enough in a month?

ADV. TEBOGO HUTAMO: once a month is not sufficient?

MAHLODI DAPHNEY NDLOVUyes it is not sufficient

ADV. TEBOGO HUTAMO: with the register.....what steps do you take about the families not coming to visit the users?

ADV. TEBOGO HUTAMO: Do you take any steps against those who are not visiting the users?

MAHLODI DAPHNEY NDLOVU We try to trace through the Id book then address.....it is a challenge for us because we can not trace any family

ADV. TEBOGO HUTAMO:.....can we get access to the register to verify the number of visit...is it available

MAHLODI DAPHNEY NDLOVU Yes it is available

ADV. TEBOGO HUTAMO:W ithout completing a register?

MAHLODI DAPHNEY NDLOVU If the family did not go to the visiting room we may not get their contacts ...if the nursing staffs does assist to tell the family members..

ADV. TEBOGO HUTAMO: What is your answer to the question?

MAHLODI DAPHNEY NDLOVUIf the family do not visit the room we may not know if they visit

ADV. TEBOGO HUTAMO: Is it like that a family member may visit and not report to the hospital that they have visited?

MAHLODI DAPHNEY NDLOVU It is not likely

ADV. TEBOGO HUTAMO:...with reference to Siyabadinga...you have testified that you are employed by Kalenong and not Siyabadinga...is there a way you will know what is happening in Siyanbadinga and Enmca?

MAHLODI DAPHNEY NDLOVU....i have a contact of

ADV. TEBOGO HUTAMO: Lets....what steps from your side was taken in relations to that lack of visitation?

MAHLODI DAPHNEY NDLOVUwe traced their addresses to and some of them have relocated...the challenge is with our white races

ARBITRATOR JUSTICE MOSENEKE): What is that?

MAHLODI DAPHNEY NDLOVUWe usually found that some of our white patients their families have relocated

ADV. TEBOGO HUTAMO:....has there been instances where family members have indicated that they have moved or changes ADDRESS

MAHLODI DAPHNEY NDLOVU yes there are some

MAHLODI DAPHNEY NDLOVU...I say 10% because qwew don't get corporations from families

ADV. TEBOGO HUTAMO:.....you hhave testified aboiut the register...of thos users that have not been visited and alos relating to the period over which they have not been visited?

MAHLODI DAPHNEY NDLOVU...regarding records we

ADV. TEBOGO HUTAMO:Are you able to compile a schedule which will show by name the number of patients that have not been visites, can the records be compiled?

MAHLODI DAPHNEY NDLOVU...if the house needs it we can compile it

ADV. TEBOGO HUTAMO:As it that means the record does not exist?

MAHLODI DAPHNEY NDLOVU....we can compile because

ADV. TEBOGO HUTAMO:.....plays a good role?

MAHLODI DAPHNEY NDLOVU agree

ADV. TEBOGO HUTAMO:.....so that arrangements can be made so that those that have not been visited will be visited

MAHLODI DAPHNEY NDLOVU agree and we will have a register to monitor that **ARBITRATOR JUSTICE MOSENEKE**):Are you talking about register regarding patients of Life Esidimeni or for future recourse?

ADV. TEBOGO HUTAMO:....it is for the terms of reference of this proceedings.....of those ...will you be able to compile a record that will be made available to this proceedings

MAHLODI DAPHNEY NDLOVU Yes

ARBITRATOR JUSTICE MOSENEKE): Defer it till tomorrow morning

ADV. TEBOGO HUTAMO: Justice

ARBITRATOR JUSTICE MOSENEKE): This a probing tomorrow...any matter pressing for Counsel to say before we adjourn till tomorrow?

ADV. TEBOGO HUTAMO: We have more 2 witnesses for today bit we will have to defer til tomorrow and we have 3 more for tomorrow. Justice can we then use this opportunity to hand over this exhibit...

ARBITRATOR JUSTICE MOSENEKE: we are going to adjourn till tomorrow by 9:30.