



**MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL**

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**DECISION NO:** 316/05/127C

**IN THE MATTER** of the Medical Practitioners Act  
1995

-AND-

**IN THE MATTER** of disciplinary proceedings  
against P medical practitioner of  
xx

**BEFORE THE MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL**

**HEARING** by telephone conference on Wednesday 15 June 2005

**PRESENT:** Miss S M Moran - Chair  
Mrs J Courtney, Dr R J Fenwicke, Dr M Honeyman,  
Dr A D Stewart (members)

**APPEARANCES:** Neither counsel for the Complaints Assessment Committee  
(Ms K P McDonald QC and Ms J Hughson) nor counsel for the  
Respondent (Mr K N Hampton QC) took part in the Conference but  
were content to rely on their written submissions

Ms G J Fraser - Secretary attended for the first part of the call only.

### **Decision on application by the complainant Dr A**

1. Dr P is a general medical practitioner in xx. On 19 April 2005 a Complaints Assessment Committee (the CAC) laid a charge against Dr P pursuant to s.92(1)(d) of the Medical Practitioners Act 1995 (the Act) alleging disgraceful conduct in a professional respect and/or in the alternative professional misconduct on the part of Dr P concerning a former patient. There are six particulars of the charge which allege that Dr P had a sexual relationship with the woman who was at the time or who had until recently been his patient; that he paid money to her in return for sexual services; that he provided prescription only drugs to her without prescription and without proper medical reasons or justification for so doing; that he gave her advice on how to prepare a lethal dose of medication for her to use as a suicide tool; that following a complaint made against him by another on behalf of the woman to the Health & Disability Commissioner concerning his treatment, he paid a sum of money to the woman in return for her not attending a planned interview with the Commissioner's office; and that he telephoned her on the morning of a proposed interview with her by the Complaints Assessment Committee in relation to a complaint made against him by another on behalf of the woman and attempted to dissuade her from meeting with the Committee.
2. Dr A is the complainant.
3. The charge has been set down for a defended hearing to commence on 3 October 2005.
4. On 8 June 2005 the CAC applied to the Tribunal for an order permanently suppressing the name of Dr A.
5. The grounds upon which the CAC relies are:
  - (a) Dr A is a registered medical practitioner, practising as a xx in xx. Ms B, who is the subject of the charge, is a patient of Dr A's; and
  - (b) The allegations which are the subject of the charge came to Dr A's attention during professional consultations she had with Ms B; and
  - (c) The charge relates to and involves matters of a sexual nature and/or will involve Dr A giving evidence of matters of an intimate and distressing nature

relating to her patient and Dr P; and

- (d) Dr A has requested that her name be permanently suppressed for reasons of privacy and safety for her and her family; and
- (e) There is no public interest in or associated with the publication of Dr A's name; and
- (f) There is no public interest in or associated with suppressing Dr A's name. Other complainants in Dr A's situation (where allegations of offending by another medical practitioner have been raised by a patient during the course of a doctor/patient consultation) may be discouraged from coming forward if they could not be assured that if their complaint ended up the subject of a charge before the Tribunal they would not have the option of having their name permanently suppressed; and
- (g) Dr P has applied for an order for interim name suppression until the conclusion of the evidence. While the CAC opposes that application, in the event that his name is ordered to be suppressed on an interim basis, and suppression is not ordered in favour of Dr A, then undue focus may be directed at Dr A by the media; and
- (h) In those circumstances there is a possibility that the public may be misunderstood as to the identity of the practitioner the subject of the charge. In the event of any such misunderstanding there would be adverse effects for Dr A and her family; and
- (i) In any event, it is desirable having regard to the interests of Dr A, Ms B, and the public interest that Dr A's name be permanently suppressed.

6. The application is made in reliance on section 106 of the Act.

7. Section 106 provides:

*“106(1) Except as provided in this section and section 107 of this Act, every hearing of the Tribunal shall be held in public.*

*106(2) Where the Tribunal is satisfied that it is desirable to do so, after having regard to the interests of any person (including (without limitation) the privacy of the complainant (if any)) and to the public interest it may make any 1 or more of the following orders:*

*(d) ... an order prohibiting the publication of the name, or any particulars of the affairs, of any person."*

8. Dr P did not oppose the application.
9. The Tribunal considered the application and the grounds upon which the CAC relies.
10. At the time of considering this application, the Tribunal also considered the application of Dr P for interim name suppression and of the patient, Ms B, for permanent name suppression.
11. The Tribunal decided, with regard to Dr P's application, that there should be an order prohibiting publication of his name and any particulars which could identify him until the Tribunal has determined the charge against him. At that stage, the Tribunal will hear further submissions as to whether the interim order should be made permanent or discharged.
12. The Tribunal's decision regarding Dr P's application is contained in a separate document of even date herewith. The Tribunal refers to that decision which sets out the legal principles and related matters which the Tribunal is obliged to take into account when considering applications of this nature.
13. The Tribunal was satisfied with regard to Dr A's application that a permanent order should be made prohibiting the publication of her name and any details which could lead to her identification.
14. While all members were satisfied that it was "desirable" in terms of section 106 of the Act that an order suppressing Dr A's name be made on a permanent basis, one of the members was of the view that while there should be name suppression it should be on an interim basis rather than a permanent basis at this early stage. However, that member was agreeable to the order being made on a permanent basis, but wanted that view noted. The decision therefore was a unanimous one.

**CONCLUSION AND ORDER**

15. Accordingly, the Tribunal hereby orders that publication of the name of the complainant, Dr A, and any particulars which could identify her, be permanently suppressed.

**DATED** at Wellington this 28<sup>th</sup> day of July 2005

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Sandra Moran  
Deputy Chair  
Medical Practitioners Disciplinary Tribunal