



MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

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DECISION NO: 315/05/127C

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 patient who is the subject of the charge

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. Ms B is the patient who is the subject of the charge.
3. The charge has been set down for a defended hearing to commence on 3 October 2005.
4. On 25 May 2005 the CAC applied to the Tribunal for an order permanently suppressing the name of Ms B.
5. The grounds upon which the CAC relies are:
 - (a) The evidence of Ms B and other witnesses to be called on behalf of the CAC, and the evidence that is likely to be called by Dr P, will cover matters of a very personal, private and distressing nature for Ms B, including sexual matters; and
 - (b) For privacy reasons and given the subject matter forming the basis of the complaint, Ms B's name should not be published; and

- (c) Dr P has indicated through his counsel that he intends to apply for an order for interim name suppression until the conclusion of the evidence. While the CAC opposes that application, in the event that an order for interim suppression of his name is made, and suppression is not ordered in favour of Ms B, then undue focus may be directed at her by the media; and
- (d) It is desirable, having regard to the respective interests of Ms B, the complainant (Dr A), Dr P and the public interest, that Ms B'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 complainant, Dr A, 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 Ms B'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 Ms B'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 patient who is the subject of the charge, Ms B, and any particulars which could identify her, be permanently suppressed.

DATED at Wellington this 28th day of July 2005

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Sandra Moran

Deputy Chair

Medical Practitioners Disciplinary Tribunal