



## **MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL**

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**DECISION NO:** 274/03/110D

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

-AND-

**IN THE MATTER** of a charge laid by the Director of  
Proceedings pursuant to Section 102  
of the Act against **THOMAS PAUL  
O'FLYNN** medical practitioner of  
Invercargill

### **BEFORE THE MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL**

**HEARING:** By telephone conference on 18 February 2004

**PRESENT:** Miss S M Moran (Chair)  
Dr F McGrath, Dr C P Malpass, Mrs H White, Dr L F Wilson  
(members)

**APPEARANCES:** Ms T M Baker, Director of Proceedings  
Mr H B Rennie QC for Dr T P O'Flynn  
Ms G J Fraser (Secretary)  
(for first part of call only)

**Order of the Tribunal regarding application by the Director of Proceedings  
for further amendment of charge.**

1. On 3 February 2004 the Director of Proceedings applied for further amendment of the charge.
2. The grounds relied upon by the Director of Proceedings were that:
  - (i) the amendment sought was technical in nature;
  - (ii) it was in the public and professional interests that the charge be amended in the manner described;
  - (iii) there was no prejudice to Dr O’Flynn by reason of the amendments (in particular no evidence had at that time been filed in the proceeding and there was sufficient time for Dr O’Flynn to prepare his defence to such charge).
3. The application came before the Tribunal on 18 February 2003.
4. Counsel for Dr O’Flynn, Mr H B Rennie QC, informed the Tribunal that he did not oppose the application.
5. The Tribunal, having considered the matter, grants the application.
6. The charge against Dr O’Flynn now reads as follows:

*“TO: TOM O’FLYNN*

*TAKE NOTICE that pursuant to ss102 and 109 of the Medical Practitioners Act 1995, the Director of Proceedings has reason to believe that grounds exist entitling the Tribunal to exercise its powers against you and hereby charges that between 1 May 2000 and 30 March 2001, while in your role as Clinical Director for Southland District Health Board Mental Health Services which provided clinical services to MARK BURTON between 10 February 2001 and 30 March 2001 you, being a medical practitioner, acted in such a way that amounted to professional misconduct.*

*IN PARTICULAR YOU:*

1. *Between 10 February 2001 and 30 March 2001 failed to ensure that Dr Peter Fisher – Medical Officer Special Scale, the clinician responsible for Mark Burton’s care, was adequately supervised.*

*AND/OR*

2. *Between 1 May 2000 and 30 March 2001 failed to adequately assess Dr Peter Fisher’s experience and/or competence, and thereby determine the scope of his unsupervised practice to ensure that he met appropriate clinical standards of care.*

*The conduct alleged in particulars 1 to 2 either separately or cumulatively amounts to professional misconduct.”*

**DATED** at Wellington this 5<sup>th</sup> day of March 2004

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S M Moran

Senior Deputy Chair

Medical Practitioners Disciplinary Tribunal