



MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

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DECISION NO.: 265/03/113C

IN THE MATTER of the **MEDICAL**
PRACTITIONERS ACT 1995

AND

IN THE MATTER of disciplinary proceedings against
RICHARD WARWICK
GORRINGE former medical
practitioner of Hamilton

BEFORE THE MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

HEARING by telephone conference on Monday 8 December 2003

PRESENT: Ms P Kapua - Chair
Dr I D S Civil, Ms S Cole, Dr R J Fenwicke, Dr M G Laney (members)

APPEARANCES: Ms K G Davenport for the Complaints Assessment Committee
Mr H Waalkens for respondent
Ms G J Fraser - Secretary
(for first part of call only)

1. An application has been received on behalf of Dr Gorringe for the Tribunal to consider the appropriateness of Dr D C Williams, general surgeon of Hamilton (retired) giving expert evidence before the Tribunal at a hearing commencing on Monday 15 December, 2003.
2. A conference call of the Tribunal and counsel was held on Monday 8 December to consider this application.
3. Mr Waalkens set out the two main issues that form the basis of the objection as:
 - 3.1 Dr Williams is a general surgeon (retired) and is giving evidence as to the standards of practice in the Waikato at the time Dr Gorringe was caring for Mr Smith. His evidence is not necessary because Dr Gorringe must be judged by the standards applicable to a general practitioner and not those of a general surgeon.
 - 3.2 Dr Williams was a chairperson of the Tribunal's predecessor, the Medical Practitioners Disciplinary Committee, and was also a member of the Tribunal for three years. As such Dr Williams had a significant role on the predecessor of the Tribunal. As Dr Williams is being called to give an expert opinion rather than as a witness as to fact the Tribunal will be placed in the position of having to adjudicate upon the opinion of a former member. From Dr Gorringe's position, this is seen as a matter of perceived bias and accordingly such evidence can be called from any number of general surgeons practising in the area at the relevant time.
4. In response Ms Davenport, counsel for the CAC, submitted that it is for the CAC to determine how best to present its case to the Tribunal. She outlined that Dr Williams' evidence was being called primarily in relation to what services would have been available in the Waikato region at the time. She further stated that Dr Williams' membership of the Tribunal expired in September 1999 and he has therefore not been a member of the Tribunal longer than he was a member. Ms Davenport further submitted that that membership does not raise the issue of bias in respect of the Tribunal as a whole. She therefore concluded that any allegation of bias is not sustainable as Dr Williams is not a member of the Tribunal and his evidence is not central to the issues before the Tribunal.

5. The Tribunal has considered the objections raised by Mr Waalkens and the submissions made by him and by Ms Davenport. The Tribunal is unanimously of the view that it does not consider there is a sustainable case for asserting bias by virtue of Dr Williams appearing before the Tribunal to give the evidence as outlined by the CAC. The Tribunal considers that a reasonably long period of time has elapsed since Dr Williams was a member of the Tribunal and that the Tribunal will therefore not be placed in a difficult position because of Dr Williams' membership of the Tribunal over four years ago.
6. The Tribunal considers that it is for the CAC to determine what evidence it wishes to place before the Tribunal and any issues as to the relevance of that evidence are best dealt with during the hearing.
7. For those reasons the Tribunal, after considering the application, is prepared to hear evidence from Dr D C Williams in respect of the disciplinary proceedings against Dr Gorringe.

DATED at Auckland this 10th day of December 2003

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P Kapua

Deputy Chair

Medical Practitioners Disciplinary Tribunal