



MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

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**PUBLICATION OF
THE NAME OF
THE COMPLAINANT
AND ANY DETAILS
WHICH MAY
IDENTIFY HER
IS PROHIBITED**

DECISION NO:

294/03/113C

IN THE MATTER

of the Medical Practitioners Act 1995

-AND-

IN THE MATTER

of a charge laid by Complaints

Assessment Committee pursuant to

Section 93(1)(b) of the Act against

RICHARD WARWICK

GORRINGE former medical

practitioner of Hamilton

BEFORE THE MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

TRIBUNAL:

Ms P Kapua (Chair)

Dr I D S Civil, Ms S Cole, Dr R J Fenwicke, Dr M G Laney (Members)

Ms G J Fraser (Secretary)

Mrs G Rogers (Stenographer)

Hearing held at Hamilton on Monday 15, Tuesday 16, Wednesday 17,
Thursday 18 December 2003

APPEARANCES: Ms K G Davenport for Complaints Assessment Committee ("the CAC")
Mr A H Waalkens for Dr R W Gorringe.

Supplementary Decision

1. In its decision 284/03/113C dated 10 May 2004 ("the substantive decision") the Tribunal found Dr Gorringe guilty of professional misconduct in his clinical management of Mr Smith (now deceased). This supplementary decision is the Tribunal's determination of penalty and should be read in conjunction with the substantive decision.

Submissions on behalf of the Complaints Assessment Committee ("CAC")

2. Ms K G Davenport, on behalf of the CAC, submitted that the appropriate penalties should be:
 - (a) Censure
 - (b) Conditions imposed such that Dr Gorringe must practise under supervision for a period of two years with a suitably qualified general practitioner, approved by the Medical Council whose costs will be met by Dr Gorringe.
 - (c) Suspension from practice for a period of 12 months once his name is restored to the Register of Medical Practitioners.
 - (d) A fine of \$600.00 (being prior to 1 July 1996).
 - (e) Costs of 40% of the costs of the prosecution and investigation by the Complaints Assessment Committee.
 - (f) Full publication of the details of the charge.

Submissions for Dr Gorringe

3. In response, counsel for Dr Gorringe, Mr A H Waalkens, submitted that as Dr Gorringe is currently not a registered medical practitioner (his name having been removed from the Register as a result of an earlier Tribunal decision) this Tribunal cannot impose conditions on his practice nor suspend him from practice.
4. Mr Waalkens submitted that the issue of conditions on Dr Gorringe's practice would be a matter for the Medical Council if, and when, Dr Gorringe applied for reinstatement on the Register. In Mr Waalkens view, any such conditions would involve a consideration of a number of matters including decisions of this Tribunal.
5. In respect of financial penalties Mr Waalkens submitted that Dr Gorringe is in a precarious financial position, with decreased earnings following the removal of his name and outstanding costs and fines of more than \$100,000 following the earlier Tribunal case. Mr Waalkens was also critical of the lack of a breakdown of costs sought. Following receipt of the submissions on penalty Mr Waalkens was forwarded a schedule of some of the costs claimed, particularly in respect of a witness for the CAC who was not required to give evidence. Copies of emails exchanged between parties on 29 July 2004 indicate that Mr Waalkens' view is that the claimed fees for the witness that was not required to give his evidence should not be included. Ms Davenport responded that the witness' costs were properly incurred up until the start of the hearing as a previous application to exclude that evidence had been unsuccessful.
6. The Tribunal recalls that the application to exclude the evidence was prompted by Mr Waalkens' receipt of the brief of evidence. The Tribunal was asked to rule on that application without seeing the brief. The Tribunal was advised by counsel for the CAC that the purpose of the brief was to advise the Tribunal of what diagnostic tools were available in the Waikato region at the time that Dr Gorringe was treating Mr Smith. However when the Tribunal received the brief just prior to the commencement of the hearing it appeared to go beyond that purpose and the Tribunal ruled that the witness did not need to be called. Because of that position the Tribunal considers that any costs related to the evidence of Dr Williams are to be excluded.

7. Mr Waalkens' final submission in respect of penalty comprised advice to the Tribunal that Dr Gorrige has suffered a significant health set back, having been diagnosed with small cell cancer of the lungs, which will have an obvious adverse impact on his health, life expectancy and practice

Decision

8. As the events relating to this charge occurred prior to 1 July 1996, by virtue of Section 154 of the Act the applicable penalties are those set out in Section 43 of the Medical Practitioners Act 1968, namely:
 - (a) Payment of a penalty not exceeding \$1,000.
 - (b) Censure
 - (c) A requirement to practice medicine subject to conditions for a period not exceeding 3 years.
 - (d) Payment of any costs or expenses of and incidental to the inquiry.
9. It is accepted that a finding in and of itself is punitive to the practitioner and that in exercising the powers under the Act the Tribunal must do so primarily in order to protect the public.¹
10. The Tribunal has made serious findings against Dr Gorrige whose name is currently removed from the Register. Accordingly the Tribunal strongly recommends to the Medical Council that should his name be reinstated to the Register conditions of practice concerning supervision should be imposed.
11. The Tribunal agrees that a fine of \$600 is appropriate and that 10% of the costs of the investigation and prosecution costs and the hearing costs should be paid by Dr Gorrige. The Tribunal has taken account of Dr Gorrige's financial position, particularly in respect of the previous Tribunal hearing. The Tribunal noted Mr Waalkens' advice as to Dr Gorrige's

¹ Teviotdale v Preliminary Proceedings Committee of the Medical Council of New Zealand [1996] NZAR 515

health and expressed a preference that such information may have been best presented by affidavit if weight were to be put on it.

12. The Tribunal therefore orders in respect of penalty that:

- (a) Dr Gorringer be censured;
- (b) A notice under Section 138(2) of the Act be published in the New Zealand Medical Journal;
- (b) Dr Gorringer is to pay a fine of \$600.00; and
- (c) Dr Gorringer is to pay 10 percent of the total costs incurred in respect of the investigation, the prosecution and the hearing, excluding costs related to the evidence of Dr Williams; and
- (d) Should Dr Gorringer's name be reinstated to the Register, the Tribunal strongly recommends to the Medical Council of New Zealand that conditions of practice should be imposed as to supervision.

DATED at Auckland this 16th day of August 2004

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P Kapua

Deputy Chair

Medical Practitioners Disciplinary Tribunal