



MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

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DECISION NO: 135/00/62D

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 **GRAHAM**
KEITH PARRY medical
practitioner of Whangarei

BEFORE THE MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

TRIBUNAL: Mrs W N Brandon (Chair)
Mr R W Jones, Dr F McGrath, Dr B J Trenwith, Mrs H White
(Members)
Ms K Davies, (Hearing Officer)
Mr R Laurensen (Legal Assessor)
Ms D Malcolm (Stenographer)

Hearing held at Auckland on Wednesday 27 September 2000

APPEARANCES: Mr M F McClelland and Ms T W Davis for the Director of Proceedings

Mr H Waalkens and Ms C Garvey for the applicant Dr G K Parry.

1. THE APPLICATION:

1.1 THIS application seeks the revocation of orders suspending Dr Parry's registration made by the Tribunal on 8 September 2000. Those orders were made pursuant to section 104(1) of the Medical Practitioners Act 1995 ("the Act"). That section provides:

"104 Interim suspension of registration or imposition of conditions of practice in disciplinary matters -

(1) At any time after a notice has been given under section 103 (1) of this Act to a medical practitioner, the Tribunal may, if it is satisfied that it is necessary or desirable to do so having regard to the need to protect the health or safety of members of the public, make an order that, until the disciplinary proceedings in respect of which that notice was issued have been determined, -

- (a) The registration of that medical practitioner be suspended; or*
- (b) That medical practitioner may practise medicine only in accordance with such conditions as are specified in the order."*

1.2 THE Tribunal may make the order of its own motion (s.104(2)), and it is not obliged to give any notice to a medical practitioner that it intends to make such an order (s.104(3)).

1.3 IN making the order to suspend Dr Parry's registration pending the determination of the charge against him, the Tribunal also ordered that the suspension of Dr Parry's registration was to take effect immediately.

1.4 THIS current application was made on the following grounds:

1. That Dr Parry's ultrasound and fetal diagnostic work is of an appropriate skill and standard such that it poses no real risk to the community.
2. That it is to the advantage of Northland Health and to patients in that region that Dr Parry be able to provide these services to the community.
3. To have revoked his registration in all the circumstances was not reasonable an/or was a breach of natural justice.
4. As set out in the affidavits of Peter Richard Stone, Yvonne Mary Lake, Ian John Page and Graham Keith Parry sworn and filed herein.
5. As set out in s. 105 of the Medical Practitioners Act 1995.

1.5 AT the hearing of the application, it was apparent that revocation of the order suspending Dr Parry's registration was sought to allow him to practise subject to conditions that he confine his practice to obstetric ultrasound and fetal detection work (and clinical instructions and teaching), as described in the affidavits filed in support of the application.

1.6 THE application was opposed by the Director of Proceedings, principally on the grounds that there has not been a change, or sufficient change, in the circumstances which existed at the time the order was made to warrant a revocation or partial revocation of the orders made.

1.7 THE Director took the approach that there was ample justification for the suspension order, and that the same serious issues identified in the Tribunal's second decision (8 September 2000), continue to be present and highly relevant.

2. BACKGROUND:

2.1 THE present application arises in the context of the hearing of one charge of disgraceful conduct laid against Dr Parry by the Director of Proceedings. The charge alleges, in summary, that between August 1997 and February 1998 Dr Parry failed to carry out tests and examinations which were clinically indicated for his patient, Mrs Colleen Poutsma and/or that he carried out unnecessary and unjustified treatment and/or he failed to refer Mrs Poutsma to National Women's Hospital in Auckland for further treatment despite receiving a pathology report confirming the diagnosis of invasive carcinoma.

2.2 THE hearing of the charge was scheduled to commence on 9 October 2000. However, as Mrs Poutsma's condition has deteriorated over the past few months, an application was made and granted to commence the hearing on 7 September 2000 by way of special sitting of the Tribunal held at St Joseph's Mercy Hospice in Auckland. Mrs Poutsma gave evidence at the hearing, and was cross-examined by Dr Parry's counsel, Mr C J Hodson QC, and she was also able to respond to questions from the Tribunal members.

2.3 AT the commencement of the hearing, Mr Hodson advised the Tribunal that Dr Parry admitted the factual situation alleged in the charge; he acknowledges that his conduct fell below the standard expected of a person in his position, but denied that this amounts to disgraceful conduct. After Mrs Poutsma gave her evidence, the hearing was adjourned to 9 October 2000.

2.4 FURTHER background to the Tribunal's order made on 8 September 2000 is set out in the reasoned decision provided at that time, and in an earlier decision, dated 21 August

2000, made in relation to an application seeking interim suspension of Dr Parry's registration sought by the Director of Proceedings.

2.5 **THAT** application was dismissed, and Dr Parry sought and was granted name suppression in respect of that application. The order granting name suppression was made until further order of the Tribunal. In light of subsequent events, and because that application and the outcome were referred to by both Counsel at the hearing of this present application thereby rendering the name suppression order otiose, and because the Tribunal's Decision made at that time is part of the background to this present application, the Tribunal orders that the name suppression order is lifted.

2.6 **IN** summary, the Tribunal made the decision to suspend Dr Parry's registration until the charge presently before it can be determined because it was satisfied that was necessary and desirable to do so having regard to the need to protect the health and safety of members of the public.

2.7 **THE** Tribunal came to the view that having heard the evidence of Mrs Poutsma given at the hearing on 7 September 2000 and the admissions made on Dr Parry's behalf it was satisfied that serious issues had been raised in relation to Dr Parry's clinical judgment and as to the safety of his professional practice.

2.8 **AT** the time of making the orders, Dr Parry was practising under the close supervision of the Medical Council as a result of a Competency Programme, put in place on the recommendation of a Competency Review Committee, which Committee had been

appointed by the Council following a request for such review made by the Health and Disability Commissioner as part of her determination of Mrs Poutsma's complaint.

2.9 **HOWEVER** the Tribunal was no longer satisfied that the supervision provided under the Competency Programme adequately addressed the issues of public health and safety which arose as a result of Mrs Poutsma's evidence, the admissions made on his behalf, and the increased level of the charge under consideration.

3. ONUS OF PROOF:

3.1 **THERE** was some discussion at the hearing of this application regarding the onus of proof. In its first decision the Tribunal had indicated that, in the event it ordered suspension of a practitioner's registration, then the onus of proof in the context of an application for revocation would fall on the practitioner. Mr Waalkens submitted that this was unfair and in breach of the principles of natural justice.

3.2 **IT** was the advice of the Tribunal's legal assessor given at the hearing that, in the circumstances of this application, it may be the case that no onus of proof applies at all. To apply an onus of proof as such, may obscure the function of the Tribunal in this present context, i.e. to exercise its powers and function solely in terms of the test contained in section 104(1).

3.3 **ALTHOUGH** some onus may fall on Dr Parry simply by virtue of the fact that the Tribunal has made an order that he is seeking to have revoked, in terms of section 105, the provision entitling Dr Parry to make such application, and particularly section 105(3), the

existing order has no ‘entrenched’ status, and the Tribunal is entitled to consider the matter afresh in all respects. Its discretion is entirely unfettered by the existing order.

3.4 THE Tribunal considers that advice is sensible and practical, and also accords with the principles of natural justice, which the Tribunal is expressly required to observe at each hearing (clause 5(3), First Schedule of the Act) and it has therefore taken this approach in considering the evidence given at the hearing.

4. DECISION:

4.1 FOR the reasons set out below, the Tribunal has determined that the application should be dismissed.

5. REASONS:

5.1 THE issue for the Tribunal is defined by the test contained in section 104(1); the Tribunal may only suspend a practitioner’s registration, pending the determination of a charge, if it is satisfied that it is “*necessary and desirable to do so having regard to the health and safety of members of the public*”.

5.2 HAVING heard the evidence of Mrs Poutsma, particularly her evidence that when she was referred to Dr Parry by her general practitioner for specialist advice, he spoke to her for a few minutes and carried out an ultrasound scan of her uterus, ovaries and cervix, but he did not examine her or carry out any internal examination, and the admissions made on Dr Parry’s behalf as to the correctness of the factual situation described in the charge, the Tribunal was satisfied that the test was satisfied.

5.3 THE Tribunal considered Mrs Poutsma’s evidence, and the admissions made on behalf of Dr Parry to be quite extraordinary, particularly as they arose in the context of his professional practice as a specialist obstetrician and gynaecologist. The evidence, and the admissions of the truth of the factual basis of Mrs Poutsma’s complaint, certainly raised serious issues regarding the safety of Dr Parry’s clinical practice, and on that basis alone, the Tribunal considered that the test contained in section 104(1) was satisfied.

5.4 MRS Poutsma’s evidence given at the special hearing was received against the background of evidence previously given to the Tribunal in the context of the Director’s application for suspension. In that context, the Tribunal had been provided with two reports obtained by the Director of Proceedings from Dr David Cook, a specialist gynaecologist of Palmerston North (annexure to Ms Sladden’s affidavit filed in support of the application).

5.5 THESE reports had been obtained as expert advice, and were very critical of Dr Parry’s care and treatment given to Mrs Poutsma. For example, Dr Cook described Dr Parry’s decision to perform a cone biopsy when a biopsy had already clearly established a diagnosis as *“incomprehensible and suggests a lack of understanding of cervical cancer management principles. In August 1997 Mrs Poutsma should have had an abdominal and pelvic examination, arguably a transvaginal scan and potentially a hysterectomy and biopsy. She received none of these investigations.”*

5.6 HE concluded that *“fundamental errors of judgment were made in this case and that Mrs Poutsma has a reasonable grounds for complaint. Firstly, that failure to*

investigate for cervical cancer in August, an approach that was strongly indicated by the presenting symptoms, may have significantly delayed the diagnosis. One can only claim this may have delayed the diagnosis as, even with adequate investigation, the true diagnosis may be missed. The point however is that adequate investigation should have been instigated. Secondly, that performance of a cone biopsy was an unnecessary intervention when urgent referral to the Tertiary Oncology team would have been the usual management at this juncture”

5.7 AS a result of the cone biopsy carried out by Dr Parry, Mrs Poutsma suffered a major haemorrhage necessitating emergency surgery in the course of which her blood pressure dropped to zero, her heart stopped, she required blood transfusions and was in Intensive Care for three days. As a further consequence, the therapeutic options to adopt radiotherapy as a treatment for her cervical cancer or to perform a lymph node biopsy were *“severely compromised by the preceding surgery and the opportunity for optimal care was lost”*.

5.8 THE Tribunal has kept in mind that Dr Cook is to give evidence at the resumed hearing and that his opinions expressed in his report may be challenged in cross-examination.

5.9 THE Chief Executive Officer of the Medical Council, Ms Sue Ineson, had also given the Director of Proceedings written advice regarding the Competency Review Committee’s Report (but that Report was not provided at that time), and that correspondence was also annexed to Ms Sladden’s affidavit. In that advice, Ms Ineson confirmed that the

Competence Review Committee had found Dr Parry's competence to be "*deficient*", and the Report "*highlighted serious concerns for patient safety.*"

5.10 **AT** the time of the Director's application, the Tribunal was reassured by the fact that Dr Parry was practising under the supervision of a Competency Programme, designed "*in the strictest terms*", and that the programme had only just commenced. However, once it heard Mrs Poutsma's evidence and received the admissions of fact made on behalf of Dr Parry, the Tribunal was no longer satisfied that the safety of Dr Parry's patients, and potential patients, was assured.

5.11 **ACCORDINGLY**, the Tribunal came to the view that the terms of the Act, particularly the terms of section 104, which at first sight may appear draconian and inconsistent with the ordinary principles of natural justice, required that if the criteria for suspension was satisfied then Dr Parry's registration should immediately be suspended until the hearing is completed and the charge is determined.

5.12 **NOTWITHSTANDING** that the Tribunal had earlier declined the Director's application, the Tribunal considered that the cumulative effect of the evidence, together with the admissions of fact, was such that the approach provided for in the Act was, in all the circumstances, sensible and prudent, and consistent with the principal purpose of the Act as described in section 3.

5.13 **DECIDING** that it should take the approach that it should now consider the matter afresh the Tribunal commenced its task against the background described above.

5.14 **IT** was of course also open to the Tribunal to revoke the suspension order made under section 104(1)(a), and to instead make orders under section 104(1)(b), that Dr Parry practise only in accordance with such conditions as the Tribunal might specify. For example, that it might come to the view that its concerns regarding the safety of Dr Parry's clinical practice might be limited to discrete area/s of his practice, and it might reinstate his registration to allow him to practice in other, limited or defined, areas of his practice, such as obstetric ultrasound, amniocentesis and chorionic villous biopsy.

5.15 **THE** Tribunal kept this latter option in mind in its deliberations.

6. THE EVIDENCE:

6.1 **IN** addition to the evidence previously given to the Tribunal, there was a significant amount of fresh material and evidence submitted on behalf of Dr Parry. Dr Parry also attended the hearing of the application and, through counsel, he very helpfully responded to questions from the Tribunal members.

6.2 **AFFIDAVIT** evidence was submitted from Dr Parry, Professor Peter Stone of National Womens Hospital and Dr Yvonne Lake, a specialist obstetrician and gynaecologist who works with Dr Parry on a regular basis. Both Professor Stone and Dr Lake expressed their opinions that Dr Parry has a high degree of skill in the area of ultrasound and fetal diagnostic testing, and that he is the only specialist who is currently able to provide these services at a sub-specialty level in the Northland area, and that it would be safer for patients having obstetric scans and invasive procedures to have these done by Dr Parry than by a lesser-experienced practitioner.

- 6.3** **IN** addition to this evidence, Dr Ian Page, who, since June this year, is the Clinical Director of Obstetrics and Gynaecology at Northland Health, attested to the high regard in which Dr Parry is held at Northland Health for his expertise, knowledge and competency in obstetric and gynaecological ultrasound scanning. He recommended that Dr Parry be able to recommence his ultrasound scanning work, and stated that Northland Health would also be assisted if it were able to utilise Dr Parry's knowledge and experience for formal teaching and other learning programmes. He deposed to the difficulties caused to Northland Health, and to the women of Northland generally, as a result of Dr Parry's suspension from practice.
- 6.4** **MR** Waalkens also submitted approximately 120 unsolicited and uncensored letters of support for Dr Parry. Many of these were from other practitioners and health professionals with whom Dr Parry has worked over the years. Many were from patients and former patients. Most expressed unreserved support and approval of Dr Parry and spoke highly of his service to the Northland community over many years.
- 6.5** **THE** Tribunal has carefully considered all of this evidence in support of Dr Parry.
- 6.6** **MR** Waalkens also referred in some detail to several of the other complaints received by the Health and Disability Commissioner and the Medical Council since publicity about the current charge was disclosed in the news and television media, particularly in two 20/20 television programmes.

6.7 **HOWEVER**, in the present context, as on previous occasions, the Tribunal has endeavoured to put the media publicity and information about other complaints to one side and to confine its consideration of this application to the evidence it has before it and to the context of the charge laid against Dr Parry.

6.8 **HOWEVER**, the Tribunal members do not exist in isolation from the newspapers and television news, and it would be artificial to suggest otherwise. Nor in terms of their duties as members of a Tribunal established under the aegis of an Act that is essentially consumer protection legislation, do they consider that such distance is required or appropriate. They have endeavoured to remain as “*uncontaminated as possible*”, and they will continue to do so. But they do consider that they are well able to exercise commonsense and judgment with regard to the weight and/or credence they place on any publicly available information which comes to their attention.

6.9 **IN** this regard, the Tribunal is also mindful that clause 6(1) of the First Schedule to the Act expressly permits the Tribunal (subject to clause 5(3)) to receive as evidence “*any statement, document, information or matter that may in its opinion assist it to deal effectively with the matters before it, whether or not it would be admissible in a court of law.*” Therefore the Tribunal considers that it is entitled to take into account anything reasonably within its purview or notice that is relevant to the task at hand; the issue is the weight the Tribunal might place upon the information, or the use it may make of it rather than the fact that certain information has come to its attention via the newspapers or television news, especially if it fairly discloses information that has come to its notice, and it has taken into account, and why.

- 6.10** IN this regard, the Tribunal refers to the third of the grounds upon which this application is advanced, that in making the Order to suspend Dr Parry's registration the Tribunal acted in breach of natural justice.
- 6.11** IN response to a question from the Tribunal as to the basis upon which this ground was advanced, Mr Waalkens advised that it related to a reference to other complaints made against Dr Parry contained in the Tribunal's Order. He did not submit that the Order should be set aside on this ground.
- 6.12** FOR present purposes, the Tribunal records that it did not consider any of the publicity which has come to the notice of any of the members, or any other complaints currently under consideration by other bodies, as being relevant for the determination of this application. It was content that it could come to a decision and safely exercise its discretion solely on the basis of the evidence which has already been described.
- 6.13** IN this regard, the most significant 'new' evidence which was presented at the hearing, and which has not been referred to thus far, was the Competency Review Committee Report to the Medical Council. The terms of this Report are such that the Tribunal is reassured that its decision to suspend Dr Parry's registration until this present charge is determined is fair and reasonable and is an appropriate use of the powers provided in section 104(1).
- 6.14** IT should be kept in mind that this Report was prepared as a result of the Health and Disability Commissioner's recommendation following her investigation of Mrs Poutsma's

complaint. It arises in the context of the events and allegations grounding the charge (the factual basis of which is admitted) and is therefore directly relevant in the circumstances of this application. It was prepared approximately three years after the events giving rise to Mrs Poutsma's complaint arose.

6.15 **THE** Report was not made available to the Tribunal previously, on the grounds that it was confidential. That issue was addressed by the Tribunal in its Decision dated 21 August 2000.

6.16 **THE** Report was prepared by a Committee comprising two medical practitioners, Dr Jenny Westgate and Dr David Leadbetter, and a non-medical member, Mrs Ruth Hewlett.

The findings of the Report can be summarised as follows:

- **2.1, Problem definition:** cause for concern to unacceptable.
- Dr Parry's written notes range from sparse to absent. His letters to referring GPs are similarly scant. There is no evidence that he takes a full history or examines patients other than by ultrasound
- In relation to particular cases reviewed - [We] find it impossible to assess whether these women were examined, however [we] regard the lack of documentation as unacceptable.
- **2.2, Clinical reasoning:** cause for concern.
- There is no evidence that Dr Parry has considered a differential diagnosis in the cases assessed.
- **2.3, Management:** cause for concern.
- [We] are concerned that Dr Parry has an excessive reliance on ultrasound in case of abnormal genital tract bleeding.

- On occasions it would appear that having excluded endometrial pathology on ultrasound, he does not offer treatment for the presenting problem, or at times may offer inappropriate treatment.
- [We] are concerned that Dr Parry places an undue reliance on cervical smear results in cases where the cervix is described as having an abnormal appearance.
- [We] are concerned that Dr Parry does not formally report the ultrasounds he performs in his Gynae Clinic. There were a number of cases where this lack of information was significant.
- **2.4 Monitoring health:** cannot assess due to paucity of notes.
- **Other causes of concern.** There were three other cases which raised particular concerns for the Committee.
- Closing interview. Dr Parry freely admitted that his documentation was inadequate and had “*let me down considerably badly*”. He had become aware of this over the last two years as he had begun to prepare case presentations of patients he had seen. He states that no one has talked to him about this before. His response to questions as what he would do about this was to say that he would think over the weekend how he could develop a plan to ensure that he put everything necessary down on paper and start the process on Monday. The Committee was disappointed with this response as [we] feel that if he had truly recognised the seriousness and significance of his lack of documentation he would have already made significant changes. He has known for some time that this Review would take place ...
- **Performance rating.** [We] had some difficulty assigning a performance rating. If [we] make an assessment based on the clinical notes then [we] would have to say that some patients may be at risk and therefore would have to grade his performance as

category 5: *Presents risks to patients but remediable*. Should undertake a Competence Programme and then be reassessed.

- However, if [we] accept that Dr Parry's clinical performance is not as recorded in the notes, but rather is more consistent with his responses to the Case Based Oral, then [we] would grade his performance as category 4: *Below average*. Should undertake a Competence Programme and report on the outcome or be reassessed.
- [We] are concerned that a systems error which allows women with an abnormal looking cervix to be referred to a general gynaecology clinic where they will not get a colposcopic assessment of their cervix should be addressed. [We] are concerned that on the evidence [we] have some women have not had a malignancy excluded [cases (2)] and the Clinical Director of the unit should be advised.
- A Competence Programme was recommended and put in place. In accordance with that Programme the Medical Council has received reports within the specified time periods and these indicate that his supervisor is satisfied that Dr Parry is practising medicine safely.

6.17 **THE** degree of consistency between the findings of the Review Committee, Mrs Poutsma's complaint and Dr Parry's admissions of fact is remarkable. The Tribunal's concerns regarding the safety of Dr Parry's practice, and his professional judgment and insight into the nature and circumstances of the matters at issue in these proceedings have not been put to rest by the evidence to his credit, at least at this stage of the proceedings bearing in mind that Dr Parry has not yet presented his case.

- 6.18 BUT** section 104 is intended to be invoked (can only be invoked) “*at any time after a notice [of a charge] has been given ... to a medical practitioner until the disciplinary proceedings in respect of [the charge] have been determined.*”
- 6.19 THEREFORE** Parliament must have intended that section 104 be applied as ‘holding’ action in exactly the circumstances which are now present, that is, to suspend the practitioner’s right to practise medicine pending the determination of a charge, if the test prescribed in section 104(1) is satisfied.
- 6.20 GIVEN** the clear terms of the section, it is safe to assume that the legislators took into account the fact that the sanction could be applied before the practitioner has an opportunity to present his case at the hearing of the charge. That is also presumably the reason why the practitioner has the right to immediately apply for revocation of any such order, and for the other entitlements stipulated in sections 104 and 105.
- 6.21 THE** Tribunal has taken all of these matters into account. The Tribunal’s determination is based solely on the criteria described in s 104(1) and is not in any way an assessment of the grounds of discipline under s 109(1) which is quite a separate exercise. That assessment is yet to be made.
- 6.22 IN** its consideration of the Report, and indeed of all of the evidence presented to it at the hearing of the application, the Tribunal has also taken into account the very helpful submissions made by both counsel, and of course it has drawn on the expertise, experience and knowledge of the individual members of the Tribunal. In this regard, it

records that the Tribunal on this occasion comprises a specialist radiologist, a public health specialist and a specialist gynaecologist, all very experienced medical practitioners with considerable relevant experience and expertise.

6.23 **THE** 'lay members' of the Tribunal comprise the Chairperson, who is a barrister, and Mrs White, who also serves her community as a Community Magistrate, both of whom have served on the Tribunal since its establishment in 1996. It is therefore a specialist tribunal comprised of a mix of lay persons and medical practitioners with relevant skills and experience.

6.24 **THE** members considered all of the evidence, and particularly the Committee Review Report, with care. In effect, the Tribunal had to determine the nature of the public interest in protecting the 'health and safety of the members of the public' referred to in section 104(1), particularly the public, in this case the women, of Northland. In terms of obstetrical cases requiring specialist care the Tribunal was advised that the Northland population is a 'high risk' group. The Tribunal considers that there are, in this case, at least two aspects of the health and safety of the women of Northland to be taken into account; it was necessary for the Tribunal to balance these competing interests.

6.25 **AS** to the first of these, it is undoubtedly to the benefit of the health and safety of the women of Northland generally to have available a specialist gynaecologist, and a practitioner who is competent in the sub-specialty of gynaecological and obstetric ultrasound diagnostics. The Tribunal accepts that it will cause inconvenience and hardship if women have to travel to Auckland, or have to wait longer for procedures which could be

done in Northland if Dr Parry was able to practise, or if they have to receive care from a less experienced practitioner.

6.26 **THE** second aspect to be considered is the requirement for the Tribunal to have “*regard to the need to protect the health and safety of members of the public [from harm]*”, that is, it must assess the risk to public health and safety if Dr Parry is permitted to continue to practise pending the determination of these proceedings notwithstanding that serious issues have been raised as to his professional and/or clinical judgment and the safety of his clinical practice.

6.27 **ON** balance, the Tribunal is firmly of the view that any benefit that may be derived from permitting Dr Parry to practise, even if his practice could be limited by the imposition of conditions, is outweighed by the more general considerations and concerns which have arisen, which concerns and issues arise as a direct result of the present charge, and thus of the proceedings “*in respect of which [notice of this present charge has issued]*”. In that context, the Tribunal is satisfied, on the basis of the evidence presented to it, that it is necessary and desirable that Dr Parry’s registration be suspended until the charge is determined “*having regard to the need to protect the health and safety*” of the members of the public of Northland.

6.28 **THE** Tribunal accepts that this present charge and the evidence giving rise to concern have arisen in the context of Dr Parry’s specialist gynaecological practice. However it is also the case that the nature of the serious issues which have arisen are as much related to Dr Parry’s professional judgment and his specialist practice generally as they are confined to

part of his specialist practice only. For example poor record-keeping, a 'paucity' of notes, inappropriate reliance on ultrasound examination, a failure to carry out relevant investigations and examinations, a failure to offer treatment that is indicated, a failure to observe or apply fundamental clinical management principles, offering inappropriate treatment, no evidence of consideration of differential diagnoses, and a poor standard of reporting to GPs who refer patients to him for specialist advice.

6.29 **THE** Tribunal did consider the possibility of revoking the order for suspension, and instead ordering that Dr Parry practise under conditions to enable him to carry on his obstetrical practice. But the Tribunal is not satisfied that any such limitation is practical or could be defined in any satisfactory way. Furthermore, as already stated, the Tribunal is satisfied that the issues which have been raised do relate to Dr Parry's ultrasound practice in that his ultrasound diagnostic practice encompasses both obstetrical and gynaecological diagnostics, and the issues identified relate to his clinical judgment and professional practices generally, rather than merely to his technical competence or one particular area of practice.

6.30 **THE** Tribunal accepts Mr McClelland's submission that to attempt to delineate between Dr Parry's obstetrical practice, and his gynecological practice would potentially cause bewilderment and confusion. Also, on the evidence presented to the Tribunal, it is difficult to see how such a condition could be enforced or supervised. The Tribunal came to the view that it is preferable in terms of protecting the health and safety of members of the Northland community if the suspension order remains in place and all of these matters can

be revisited once the charge has been determined, which will in any event occur within a matter of a few weeks.

6.31 FOR all of the reasons outlined, the Tribunal members were unanimously of the view that considering all of the evidence afresh, and putting all of the publicity and information regarding other complaints out of consideration, they are satisfied that it is necessary and desirable having regard to the need to protect the health and safety of members of the public that Dr Parry's registration should continue to be suspended pending the determination of these proceedings.

6.32 THE Tribunal records that, although it has not addressed all of the submissions and evidence specifically in this Decision, it has considered all matters referred to it for consideration, including the impact that the making of the orders has, or might have, on Dr Parry's professional reputation, the documentary evidence provided in support of Dr Parry and the standing and reputation of the practitioners who have provided affidavit evidence in support of the application, and the fact that reports provided to date by Dr Parry's Competency Programme supervisor are favourable to him.

7. ORDERS:

7.1 THE Tribunal orders as follows:

7.1.1 The application for revocation of the order suspending Dr Parry's registration until the disciplinary proceedings in respect of which a notice of amended charge has been issued have been determined, is dismissed.

7.1.2 The Tribunal's order that Dr Parry's registration is to be suspended until these proceedings are determined remains in force.

7.1.3 The Tribunal's order suppressing publication of the fact that an application to suspend Dr Parry's registration was made by the Director of Proceedings, and determined by the Tribunal on 21 August 2000, is set aside.

DATED at Auckland this 3rd day of October 2000

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W N Brandon

Chair

Medical Practitioners Disciplinary Tribunal