



MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

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DECISION NO.: 229/02/96C

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

AND

IN THE MATTER of disciplinary proceedings against R
registered medical practitioner of xx

BEFORE THE MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

HEARING by telephone conference on Wednesday 30 April 2003

PRESENT: Ms P J Kapua - Chair

Mr P Budden, Dr I D S Civil, Professor W Gillett, Dr U Manu
(members)

APPEARANCES: No appearance for the Complaints Assessment Committee or Dr R.

Decision on applications for:

- **Suppression of the complainant's name and identifying details.**
- **Interim suppression of the respondent's name and identifying details.**
- **Leave to amend particulars of the disciplinary charge.**

The Charge

1. Dr R is a medical practitioner from xx. On 12 November 2002 notice was given of particulars of a charge against Dr R of professional misconduct. An amendment to the particulars of the charge dated 6 March 2003 has now been filed.

Application for Suppression of the Complainant's Name and Identifying Details

2. Counsel for the Complaints Assessment Committee has applied for an order for suppression of the name and any identifying details of the complainant referred to in the charge against Dr R laid before the Tribunal. Counsel for Dr R has not indicated any opposition to the application.
3. The application was made on the grounds that the charge relates to matters of an intimate and distressing nature for the complainant and identification of the complainant will cause irreparable harm and distress.
4. In the circumstances the Tribunal grants the application for the suppression of the complainant's name and any identifying details referred to in the charge against Dr R.

Application for Interim Suppression of the Respondent's Name and Identifying Details

5. Counsel for Dr R has applied for an order prohibiting the publication of the name of the respondent and identifying details referred to in the amended charge of professional misconduct. Counsel for the Complaints Assessment Committee has not indicated any opposition to the application.

6. The application was made on the grounds that publication of the respondent's name would be a significant penalty; that publication would cause irreparable harm and distress to the respondent and particularly his family who are said to be at vulnerable stages of their development; that publication could adversely affect the respondent's surgery practice and his patients' confidence in him; that publication of one parties name only would lead to an unbalanced focus in the media; and that it is just and equitable so to do.
7. The Tribunal has consistently stated that the general principle set out in s.106 of the Act that hearings of the Tribunal shall be heard in public will only be departed from in exceptional circumstances. To do otherwise would be to negate the intent of s.106.
8. In this instance however the Tribunal has not had the benefit of submissions from either counsel and there are no affidavits filed in support of the application, particularly in respect of the effect on the respondent's family. On the face of the application as it stands there is little to support this application. However, the Tribunal is concerned to ensure that it has given every opportunity to the respondent and accordingly will give the respondent until 30 May 2003 to file any evidence in support of this application. Interim name suppression is granted until that date.

Application for Leave to Amend Particulars of the Disciplinary Charge

9. On 6 March 2003 an amended disciplinary charge was filed. Counsel for Dr R advised the Tribunal on 17 April 2003 that the respondent neither consents to, nor opposes, the amendments to the charge.
10. In the application for interim name suppression for the respondent, dated 28 April 2003, counsel for the respondent sought an order “[p]rohibiting the publication of the name of the respondent and identifying details referred to in **the amended charge of professional misconduct**”. (Emphasis added). It appears to the Tribunal that the respondent, while not perhaps consenting to the amendments, has accepted the amendments.

11. In those circumstances, the Tribunal grants leave to amend the charged as filed on 6 March 2003.

DATED at Auckland this 22nd day of May 2003

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P J Kapua

Deputy Chair

Medical Practitioners Disciplinary Tribunal