

# *Medical Practitioners Disciplinary Tribunal*

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**DECISION NO.:** 76/99/45D

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

**AND**

**IN THE MATTER** of disciplinary proceedings against **COLIN  
FREDERICK WAKEFIELD** medical  
practitioner of Havelock North

**BEFORE THE MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL**

**TRIBUNAL:** Mr P J Cartwright - Chair

Mr P Budden, Dr R S J Gellatly, Dr J M McKenzie,

Dr D C Williams (members)

**COUNSEL:** Ms T Davis Director of Proceedings

Ms J Gibson for respondent

Ms G J Fraser - Secretary

**DECISION ON THE PAPERS:**

**1.1** **THE** Director of Proceedings of the Health & Disability Commissioner pursuant to Sections 102 and 109 of the Medical Practitioners Act 1995 has laid a charge against Dr Colin Frederick Wakefield which is to be considered by the Medical Practitioners Disciplinary Tribunal (the Tribunal). The charge has been set down for hearing in Napier on 30 June 1999.

**1.2** **MS** Gibson has indicated that Dr Wakefield has no objection to the application.

**2. ORDER:**

**PURSUANT** to Section 106(2)(d) of the Act an order is made prohibiting the publication of the name, or any particulars of the affairs of the complainant.

**3. REASONS FOR ORDER:**

**3.1** **ALTHOUGH** the patient in this matter is now deceased, the Director of Proceedings has been told by her family members that they ask for her name to be suppressed.

**3.2** **THE** Director of Proceedings understands from the patient's family that the actions of Dr Wakefield confused and humiliated her and she did not want anyone to know. Out of respect for her wishes her son and daughter-in-law chose not to tell other members of the family of the incident.

**3.3** **THIS** is a formal application pursuant to Section 106(2) of the Act which provides, where the Tribunal is satisfied that it is desirable to do so, after having regard to the interests of any person, including without limitation the privacy of the complainant, and to the public interest,

it may make an order prohibiting publication of the name, or any of the particulars of the affairs of any person.

**3.4** **IN** this case the Tribunal must endeavour to balance the competing interest of the privacy of the complainant against the public interest, this latter interest having been identified variously in previous cases as residing in the principle of open justice, the public's expectation of the accountability and transparency of the disciplinary process, the importance of freedom of speech and the media's right to report court proceedings fairly of interest to the public. The Tribunal has consistently adopted this balancing approach in other Decisions relating to Section 106.

**3.5** **THE** Director submitted that given the distress that was caused to the patient, the wider family being unaware of the incident, the nature of the doctor's actions and the fact that it is not the patient's behaviour that is in question, the Tribunal can justifiably suppress the patient's name.

**3.6** **GENERALLY** the Tribunal considers it is in the public interest that privacy should be afforded complainants. If patients have the fear that their private medical matters could be exposed to public gaze, this could discourage them from making complaints which would not be in the public interest. Allied with the privacy issue is the practical consideration that publication of details of health treatment is bound to be a deterrent to the laying of a complaint by persons who might otherwise have had a justifiable grievance.

**3.7** **IN** the present case there can be nothing in the information of the identity of the complainant which requires recognition of a greater public interest than private interest.

**3.8** **FOR** the brief reasons given the order sought has been made.

**DATED** at Auckland this 10<sup>th</sup> day of June 1999.

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P J Cartwright

CHAIR