



MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

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**PUBLICATION OF
THE NAME OF THE
PATIENT AND
COMPLAINANT IS
PROHIBITED**

DECISION NO:

269/03/101D

IN THE MATTER

of the Medical Practitioners Act
1995

-AND-

IN THE MATTER

of a charge laid by Director of
Proceedings pursuant to Section
102 of the Act against **ANTON
FRANCOIS HAUPTFLEISCH**
medical practitioner of Levin

BEFORE THE MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

TRIBUNAL:

Ms P Kapua (Chair)

Dr F E Bennett, Mrs J Courtney, Dr F McGrath, Dr A A Ruakere
(Members)

Ms G J Fraser (Secretary)

Mrs H M Hoffman (Stenographer)

Mrs J Kennedy (Scopist)

Hearing held at Wellington on Monday 28 and Tuesday 29 July
2003

APPEARANCES: Ms T Baker and Mr J Tamm for the Director of Proceedings
Mr A H Waalkens and Ms G Phipps for Dr A F Hauptfleisch.

Supplementary Decision

1. In its decision 250/03/101D dated 15 October 2003 (“the substantive decision”) the Tribunal found Dr Hauptfleisch guilty of professional misconduct. This supplementary decision should be read in conjunction with the substantive decision.
2. The substantive decision followed a hearing of a charge of professional misconduct laid against Dr Hauptfleisch by the Director of Proceedings. The allegations giving rise to that charge and upheld by the Tribunal were that Dr Hauptfleisch failed on 26 April 2001 to consult with or refer his patient, Mrs A, to a specialist or other medical practitioner in a timely manner for the purposes of excluding or confirming the diagnosis of intra-cranial haemorrhage or other abnormality in the brain and that on 27 April 2001 he failed to refer, or assist referral of Mrs A to a specialist in a timely manner.

Submissions on Behalf of the Director

3. The Director submitted that the Tribunal’s decision indicates that it viewed Dr Hauptfleisch’s actions in this matter with some seriousness. Further, the Director submits that Dr Hauptfleisch’s subsequent behaviour, and in particular, his omission in contacting the A’s once Mrs A had been referred to hospital and his omission in obtaining any information about Mrs A’s condition or progress was an aggravating feature.
4. The Director also considered that the fact that Dr Hauptfleisch had made no attempt to apologise to Mr and Mrs A was a further aggravating feature.

Submissions on behalf of Dr Hauptfleisch

5. For Dr Hauptfleisch, Mr Waalkens reiterated a number of points made in the context of the substantive hearing, particularly that Dr Hauptfleisch is being judged with the benefit of hindsight. He sets out in some detail the evidence that he considers supports the proposition that the error made by Dr Hauptfleisch was understandable.
6. Mr Waalkens further submitted that at all times Dr Hauptfleisch was doing his best and that his motivation was to make the correct diagnosis and to assist his patient. He also added that Dr Hauptfleisch was himself unwell on the 26th and 27th April 2001 and made reference to the affidavit filed in support of Dr Hauptfleisch's application for name suppression.
7. The Tribunal notes that evidence of Dr Hauptfleisch's motivation and the details concerning his health at the time were not before the Tribunal as Dr Hauptfleisch did not himself give evidence.
8. In relation to penalty, Mr Waalkens submits that Dr Hauptfleisch has suffered substantial adverse publicity as a consequence of the Tribunal hearing and decision. As a result Mr Waalkens advises the Tribunal that a number of patients have uplifted their files from him as a consequence. He further states that Dr Hauptfleisch is in a difficult position following a matrimonial property settlement and is in no position to pay a fine.
9. As a final point, Mr Waalkens points to Dr Hauptfleisch's cooperation throughout the process as a factor to be taken into account.

Decision

10. The Tribunal has considered all of the submissions made by the Director and by Mr Waalkens. Having taken into account their submissions and also having reviewed its findings made in the substantive decision, the Tribunal determines that the following penalty is appropriate:

- (1) Dr Hauptfleish is censured;
- (2) He is to pay a fine in the sum of \$7,500.00;
- (3) Dr Hauptfleisch is to pay 40% of the costs and the expenses that are incidental to the inquiry by the Director of Proceedings in relation to the subject matter of this charge, the prosecution of the charge, and the Tribunal's hearing of the charge; and
- (4) That a notice under s138(2) of the Act be published in the New Zealand Medical Journal.

Reasons for the Decision

11. The Tribunal is satisfied, taking account of all the relevant facts and circumstances that it is appropriate that Dr Hauptfleisch should be censured.
12. The Tribunal considers that a fine of \$7,500.00 is appropriate to reflect the seriousness of the charge and bearing in mind Mr Waalkens' submissions concerning Dr Hauptfleisch's financial position.
13. The Tribunal considers that payment of 40% of the costs incurred as part of the inquiry is appropriate.

DATED at Auckland this 31st day of December 2003.

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Prue Kapua
Deputy Chair
Medical Practitioners Disciplinary Tribunal