

**MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL**

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**PUBLICATION OF
THE NAME OF THE
DOCTOR OR ANY
DETAILS WHICH
MAY IDENTIFY
HIM IS PROHIBITED**

DECISION NO: 253/03/104D
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 P medical
practitioner of xx

BEFORE THE MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

TRIBUNAL: Dr D B Collins QC (Chair)

Mrs J Courtney, Professor W Gillett, Dr A R G Humphrey,

Dr J M McKenzie (Members)

Ms G J Fraser (Secretary)

Mrs G Rogers (Stenographer)

Hearing held at Rotorua on Tuesday 2 and Wednesday 3 September
2003

APPEARANCES: Ms K P McDonald QC and Ms T Baker for the Director of Proceedings

Mr H Waalkens and Ms C Garvey for Dr P.

Introduction

1. On 24 September 2003 the Tribunal dismissed a charge of professional misconduct brought by the Director of Proceedings against Dr P.
2. On 21 July the Tribunal made an interim order suppressing publication of Dr P's name and any identifying features. The interim order remained in force until the Tribunal determined the charge.
3. The Tribunal's decision (243/03/104D) granting an interim order for name suppression should be read in conjunction with this decision. Because all relevant principles were fully traversed in its earlier decision the Tribunal can dispose of the current application very succinctly.
4. In his new application Dr P has applied for an order to permanently suppress publication of his name and any identifying features. The Director of Proceedings neither consents to, nor opposes the granting of the order sought by Dr P.

Principles

5. In addition to the principles articulated in its decision of 21 July the Tribunal emphasises that the fact that a charge has been dismissed does not in itself justify the granting of final

orders of the type now sought by Dr P. Authority for this proposition can be found in the District Court decision in *Harman v MPDT*¹.

6. In assessing Dr P's application the Tribunal has focused upon whether it is desirable to grant the application "... having regard to the interests of any person (including, without limitation) the privacy of the complainant ... and ... the public interest ..." ²

Basis for Application

7. In the present case Dr P identifies the following factors as matters the Tribunal should have regard to when considering his request:
 - 7.1 The fact that the midwife involved in this matter has had her name permanently suppressed by the Nursing Council of New Zealand;
 - 7.2 The strong likelihood of the media reporting on this case in a way which will have an adverse impact upon Dr P's reputation;
 - 7.3 The likelihood Dr P's elderly and unwell parents may be adversely affected if their son is named in conjunction with this proceeding. This is a factor which influenced the Tribunal when it granted interim orders suppressing Dr P's name;
 - 7.4 The likelihood that Dr P's wife, who is also suffering from significant health difficulties will be adversely affected if her husband's name is published in conjunction with this case. This also was a factor which influenced the granting of the interim orders made in this case.
8. The Tribunal has had to balance Dr P's interests against the wider public interest in knowing the identity of a doctor who has appeared before the Tribunal. In this instance the Tribunal has unanimously resolved to grant Dr P's application. The fact that the application has not been opposed by the complainant (through the office of the Director of

¹ DC Auckland, MP4275/00, 3502, Doogue DCJ

² Section 106(2)(d) Medical Practitioners Act 1995

Proceedings) has influenced the course adopted by the Tribunal. The Tribunal has also determined that the factors identified in support of the application by Dr P do outweigh the public interest considerations which the Tribunal has analysed in depth in its decision of 21 July 2003.

9. The Tribunal orders that nothing be published in relation to its decision which names Dr P or which otherwise identifies him.

DATED at Wellington this 25th day of October 2003

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D B Collins QC

Chair

Medical Practitioners Disciplinary Tribunal