



MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

PO Box 11-649, Wellington • New Zealand
13th Floor, Mid City Tower • 139-143 Willis Street, Wellington
Telephone (04) 381 6816 • Fax (04) 802 4831
E-mail mpdt@mpdt.org.nz
Website www.mpdt.org.nz

DECISION NO: 311/05/125C

IN THE MATTER of the Medical Practitioners Act
1995

-AND-

IN THE MATTER of a charge laid by a Complaints
Assessment Committee pursuant to
Section 93(1)(b) of the Act against
MATTHEW JAMES BOYD,
medical practitioner of Wellington

BEFORE THE MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

TRIBUNAL: D B Collins QC (Chair)

Mr P Budden, Dr R J Fenwicke, Dr J L Virtue and Dr L F Wilson
(Members)

Ms K L Davies (Hearing Officer)

Ms H Hoffman (Stenographer)

Hearing held at Wellington on 12 April 2005

APPEARANCES: No appearance for either the CAC or Dr Boyd

Introduction

1. Doctor Boyd is currently registered as a medical practitioner. He has not held an annual practising certificate since his arrest in 2002 on matters that have given rise to the charge before the Tribunal.
2. In May 2002 Dr Boyd was arrested and charged with a series of offences including:
 - (a) Two charges under s134(1) Crimes Act 1961 of having sexual intercourse with girls aged between 12 and 16;
 - (b) Four charges laid pursuant to s134(2)(a) Crimes Act 1961 of indecently assaulting girls aged between 12 and 16.
3. Doctor Boyd pleaded guilty to these charges in the Wellington District Court on 18 May 2004. He was sentenced to a total of 2 years imprisonment. The Solicitor General successfully appealed that sentence which was increased by the Court of Appeal to 3 years (in total) in a decision delivered on 11 October 2004.
4. On 2 February 2005 a Complaints Assessment Committee laid a disciplinary charge against Dr Boyd with the Tribunal. That charge was laid pursuant to s109(1) Medical Practitioners Act 1995 ("MP Act") and alleged Dr Boyd had been convicted of an offence punishable by imprisonment of a term of 3 months or longer, and that the circumstances of the offending reflected adversely on Dr Boyd's fitness to practise medicine.
5. Doctor Boyd notified the Tribunal in writing that he accepted the charge. In these circumstances the Tribunal agreed to deal with the charge without the need for any appearance by counsel for the CAC.

6. After considering all evidence and submissions the Tribunal announced its decision on 12 April. The Tribunal's decision is:
 - (a) Doctor Boyd's name is removed from the register of medical practitioners pursuant to s110(1)(a) MP Act;
 - (b) Dr Boyd is censured pursuant to s110(1)(d) MP Act.
7. The Tribunal makes no order for costs, because Dr Boyd is bankrupt and it would be futile to impose a monetary penalty which is unlikely to be able to be enforced.
8. In this decision the Tribunal explains its reasons for the orders it announced on 12 April.

Doctor Boyd's Offending

9. Doctor Boyd's offending is fully explained in the sentencing decision of the District Court and the judgment of the Court of Appeal.
10. At the time his offending began Dr Boyd was a registered medical practitioner, completing his internship at Dunedin Hospital. In later months, whilst still offending, Dr Boyd was employed in hospitals throughout New Zealand, including Wellington Hospital.
11. When Dr Boyd was in Dunedin he began making contact with girls through "internet chat rooms". His communications included sending photos of himself without clothes to young females.

Sexual intercourse with girls aged 12 to 16

12. In February 2001, when Dr Boyd was 24 years old and still living in Dunedin he began email conversations with a 14 year old girl. Not long after making email contact with this 14 year old, Dr Boyd met with her. On the evening of 16 February 2001 Dr Boyd had sexual intercourse with this victim. The sexual relationship continued through 2001. On the last occasion Dr Boyd had sexual intercourse with this girl she had turned 15 years of age.

13. In March 2001 Dr Boyd met another girl (aged 15) through an internet chat room. She told Dr Boyd her age. He told her he was a doctor. Soon after they agreed to meet in person and began a sexual relationship that continued through until February 2002. They had sexual intercourse on approximately 12 occasions.

Indecent assaults on girls aged 12 to 16

14. In April 2001 Dr Boyd met another of his victims through an internet chat room. At the time the girl in question was 15 years old and living in Dunedin. Doctor Boyd arranged to meet the girl at her home one evening when her parents were not there. Doctor Boyd fondled the girl's breasts and touched the outside of her genitalia. The victim described these assaults as "unexpected and unwelcome". During the time they were in contact Dr Boyd sent this victim an email attaching pictures of himself holding his erect penis in his hand. He also sent her a video clip of him masturbating.
15. On 2 September 2001 Dr Boyd started communications through internet chat rooms with a 13 year old girl in Dunedin. Arrangements were made by Dr Boyd to meet this victim. He met this particular girl on only one occasion during which time Dr Boyd digitally penetrated the girl's vagina. The young girl was frightened by this indecent assault.
16. In February 2002 Dr Boyd was living in Wellington, when he made contact with a 14 year old girl through an internet chat room. Doctor Boyd was aware of this girl's age. Doctor Boyd explained he was 25 years old and a doctor. Arrangements were made for the girl in question to meet Dr Boyd at his apartment. The girl went to Dr Boyd's apartment with another girl where they were plied with alcohol by Dr Boyd. They played sexualised drinking games. Later on that same night a small party developed at Dr Boyd's apartment during which time he groped the breasts and rubbed himself against the body of one of the girls and groped the breasts of the 14 year old victim. A 15 year old male at the party intervened and prevented any continuation of the offending.

Section 109(1)(e) Medical Practitioners Act 1995

17. There are two key elements to s109(1)(e) MP Act. Those elements are:

- (a) That the practitioner “has been convicted in any Court in New Zealand or elsewhere of an offence punishable by imprisonment for a term of 3 months or longer”; and
 - (b) That “the circumstances of the offence reflect adversely on the practitioner’s fitness to practise medicine”.
18. The six charges which Dr Boyd admitted each carried a maximum penalty of 7 years imprisonment, and accordingly the first limb of s109(1)(e) MP Act is satisfied.
19. In considering whether or not Dr Boyd’s offending reflected adversely on his fitness to practise medicine the Tribunal has had regard to the fact that the purposes of disciplinary proceedings include protecting the public and maintaining public and professional confidence in the profession. In *Dentice v The Valuers Registration Board*¹ Eichelbaum CJ summarised the role of professional disciplinary tribunals as being to:

“... enforce a high standard of propriety and professional conduct; to ensure that no person unfitted because of his or her conduct should be allowed to practice the profession in question; to protect both the public, and the profession itself, against persons unfit to practice; and to enable the professional calling, as a body, to ensure that the conduct of members conforms to the standards generally expected of them”.

To these cases could be added *Re A Medical Practitioner*² and *Guy v Medical Council of New Zealand*³

20. The Tribunal has no hesitation in concluding Dr Boyd’s offending did reflect adversely on his fitness to practice medicine. The reasons for this conclusion can be summarised in the following way:
- (a) Doctor Boyd’s behaviour was predatory. His offending occurred over a 14 month period during which time he targeted impressionable young teenage girls;
 - (b) Doctor Boyd traded on the fact he was a doctor. He used his professional status to impress his victims;

¹ [1992] 1 NZLR 720 at 724-725

² [1959] NZLR 784

³ [1995] NZAR 67

- (c) The charges of unlawful sexual intercourse related to offending that was of a sustained and often repeated nature;
- (d) There was a significant age difference of approximately 10 years between Dr Boyd and his victims, he was an adult, they were young teenagers;
- (e) Doctor Boyd's offending has had a significant effect on his victims. The District Court Judge referred to this when he said:

“The offending has had a significant effect on all [of the victims]. In each case there has been a significant breach of trust on [Dr Boyd's] part as an adult in [his] dealings with teenaged girls ... the last two indecent assault charges occurred against the background of the provision of alcohol to teenage girls”.

- 21. The Court of Appeal drew attention to the exploitative nature of Dr Boyd's offending when it noted:

“... whilst it must be acknowledged that this offending did not take place in the nature of a breach of trust between a doctor and patient (which would be an extremely serious breach of trust), Dr Boyd was nevertheless able to portray himself as being a doctor, which added something to the exploitative feature of what occurred; and these were adult/child situations”.

- 22. The Tribunal has no hesitation in stating health professionals are expected to behave to a very high standard in their private and professional lives. The sexual abuse of young females in any context is totally unacceptable conduct on the part of a registered medical practitioner and reflects adversely on their fitness to practice medicine.

Penalty

- 23. The District Court, and Court of Appeal gave Dr Boyd credit for the fact he pleaded guilty to the six charges in question, thereby sparing his victims the ordeal of giving evidence in a criminal trial.
- 24. Doctor Boyd has also candidly admitted his guilt to the Tribunal.
- 25. Notwithstanding the fact that he has admitted his wrong doings, there are features of Dr Boyd's responses to his offending which cause the Tribunal considerable concern. In an affidavit filed in the District Court Dr Boyd explained:

- (a) That his offending occurred after he commenced his internship in respect of which he said “*the long hours of work, the tedious bureaucracy and the constant immersion in an environment of suffering and death depressed [him]*”.
 - (b) Working as a junior doctor led to the breakup of a long term relationship with his girlfriend;
 - (c) Working long hours in a hospital caused an increase in Dr Boyd’s drinking behaviour;
 - (d) Doctor Boyd used the internet to fill voids in his life. The chat room became a forum “*for sexual fantasy, experimentation [and] desire*”;
 - (e) Internet chat became a source of addiction. Doctor Boyd said “*internet chat is the most addictive thing [he has] ever encountered*”.
26. The Tribunal accepts Dr Boyd has provided a full statement of regret and recognised his behaviour has adversely affected more people than he thought possible. His offending has caused severe harm and distress to his victims, his family and friends.
27. However, notwithstanding his honesty in admitting his guilt the Tribunal is perturbed Dr Boyd does not appear to have displayed insight into his own emotional and possible psychological/psychiatric short comings. He has rationalised his offending by referring to stresses external to him, and not shown any appreciation of his emotional and possible psychological/psychiatric deficiencies.
28. Doctor Boyd has recognised the penalty options available to the Tribunal are very limited. He has said he has no intention of trying to practise medicine again. His offending was so disgraceful that the Tribunal could not contemplate penalising him by imposing conditions on his ability to practise medicine, or by merely suspending him. Doctor Boyd’s behaviour was so far removed from the standards expected of a medical practitioner that his name must be removed from the register of medical practitioners.
29. In addition to removing Dr Boyd’s name from the register of medical practitioners, the Tribunal marks its disgust at his behaviour by formally censuring him.

30. The Tribunal gave consideration to imposing an order for costs against Dr Boyd but resolved not to do so because of his financial position.

31. Doctor Boyd has described himself as:

“... bankrupt, without assets, without funds, without income and imprisoned ...”.

32. The CAC properly accepts Dr Boyd has no ability to meet an order for costs. In these circumstance the Tribunal sees little point in imposing a financial penalty that is unlikely to be able to be enforced.

33. In addition to the orders explained above, the Tribunal directs publication in the New Zealand Medical Journal of a summary of this decision and the orders made by the Tribunal. That publication should name Dr Boyd.

DATED at Wellington this 21st day of April 2005

.....

D B Collins QC

Chair

Medical Practitioners Disciplinary Tribunal