



MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

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DECISION NO: 322/05/127C

IN THE MATTER of the Medical Practitioners Act
1995

-AND-

IN THE MATTER of disciplinary proceedings
against P medical practitioner of
xx

BEFORE THE MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

HEARING: Hearing by telephone conference on Monday, 7 November 2005

PRESENT: Miss S M Moran (Chair)
Mrs J Courtney, Dr R J Fenwicke and Dr A D Stewart (Members)
Dr M Honeyman (by email)

APPEARANCES: Neither counsel for the Complaints Assessment Committee
(Ms K P McDonald QC and Ms J C Hughson) nor counsel for the
Respondent (Mr P H B Hall) attended the conference.
Ms Kim Davies, Legal Officer, attended for first part of the call.

Decision on application for name suppression by Ms C.

1. Ms C, who is to be called by the CAC as a witness at the substantive hearing, has applied for an order that her name be permanently suppressed.
2. Dr P is a general medical practitioner in xx. On 19 April 2005 a Complaints Assessment Committee (the CAC) laid a charge against Dr P pursuant to s.92(1)(d) of the Medical Practitioners Act 1995 (the Act) alleging disgraceful conduct in a professional respect and/or in the alternative professional misconduct on the part of Dr P concerning a former patient. There are six particulars of the charge which allege that Dr P had a sexual relationship with the woman who was at the time or who had until recently been his patient; that he paid money to her in return for sexual services; that he provided prescription only drugs to her without prescription and without proper medical reasons or justification for so doing; that he gave her advice on how to prepare a lethal dose of medication for her to use as a suicide tool; that following a complaint made against him by another on behalf of the woman to the Health & Disability Commissioner concerning his treatment, he paid a sum of money to the woman in return for her not attending a planned interview with the Commissioner's office; and that he telephoned her on the morning of a proposed interview with her by the Complaints Assessment Committee in relation to a complaint made against him by another on behalf of the woman and attempted to dissuade her from meeting with the Committee.
3. The charge has been set down for five days for a defended hearing to commence on Monday, 27 February 2006.
4. On 10 August 2005 the CAC applied to the Tribunal for an order permanently suppressing the name of Ms C.

5. The grounds upon which the CAC relies are:
- (a) Ms C is a registered clinical psychologist who practices in xx. She is employed by xx. The patient (whose name has been permanently suppressed pursuant to an order of the Tribunal dated 28 July 2005 and who is the subject of the charge) is a client of Ms C's at xx (Outpatient) Service.
 - (b) The allegations which are the subject of the charge came to Ms C's attention during professional consultations she had with the patient and during discussions she had with her colleague (the patient's psychiatrist who is the complainant in these proceedings and whose name is also the subject of a permanent suppression order made by the Tribunal on 28 July 2005) (the complainant).
 - (c) The charge relates to and involves matters of a sexual nature and/or will involve Ms C giving evidence of matters of an intimate and distressing nature relating to the patient and Dr P.
 - (d) Ms C has requested that her name be permanently suppressed for reasons of privacy and for professional reasons.
 - (e) There is no public interest in or associated with the publication of Ms C's name.
 - (f) Dr P has been granted interim name suppression until the conclusion of the evidence. In the event that suppression is not ordered in favour of Ms C undue focus may be directed at her by the media.
 - (g) In the event of publication of Ms C's name there could be adverse effects on her and her family.
 - (h) It is desirable having regard to the interests of Ms C, the patient, the complainant, and the public interest that Ms C's name be permanently suppressed.
 - (i) It is not intended that the fact that Ms C is the patient's psychologist and therapist be suppressed.

6. The application is made in reliance on section 106(2)(d) of the Medical Practitioners Act 1995 (the Act).

7. Section 106 of the Act provides:

“106(1) Except as provided in this section and section 107 of this Act, every hearing of the Tribunal shall be held in public.

106(2) 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 (if any)) and to the public interest it may make any 1 or more of the following orders:

(d) ... an order prohibiting the publication of the name, or any particulars of the affairs, of any person.”

8. Dr P’s counsel informed the Tribunal that he did not wish to be heard on the application.

9. The Tribunal considered the application and the grounds upon which the CAC relies.

10. As already indicated in its decision of 28 July 2005 the Tribunal made orders permanently suppressing the names of the patient and the complainant.

11. On the same date the Tribunal made a further order with regard to an application by Dr P that publication of his name be prohibited and any particulars which could identify him until the Tribunal has determined the charge against him. At that stage, the Tribunal will hear further submissions as to whether the interim order should be made permanent or discharged.

12. The Tribunal’s decision regarding Dr P’s application is contained in a separate document dated 28 July 2005. The Tribunal refers to that decision which sets out the legal principles and related matters which the Tribunal is obliged to take into account when considering applications of this nature.

13. When considering the present application, the Tribunal had regard to those principles and to the grounds advanced in Ms C’s application. The Tribunal was

satisfied that a permanent order should be made prohibiting the publication of Ms C's name and any details which could lead to her identification.

CONCLUSION AND ORDER

14. Accordingly, the Tribunal hereby orders that publication of the name of Ms C and any particulars which could identify her, be permanently suppressed.

DATED at Wellington this 13th day of December 2005

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Sandra Moran
Deputy Chair
Medical Practitioners Disciplinary Tribunal