

# *Medical Practitioners Disciplinary Tribunal*

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**DECISION NO.:** 67/99/40C

**IN THE MATTER** of Section 104 of the Medical  
Practitioners Act 1995

**AND**

**IN THE MATTER** of disciplinary proceedings against  
D medical practitioner of xx

**BEFORE THE MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL**

**HEARING** by telephone conference on Monday 8 March 1999

**PRESENT:** Mr P J Cartwright- Chairperson

Dr R S J Gellatly, Dr J W Gleisner, Mr G Searancke,

Dr A D Stewart (Members)

**APPEARANCES:** Ms K P McDonald for the Complaints Assessment Committee

Mr C Eckard for respondent

(for first part of call only)

**APPLICATION FOR INTERIM SUSPENSION OF REGISTRATION:**

1. A Complaints Assessment Committee (the CAC) pursuant to Section 93(1)(b) of the Medical Practitioners Act 1995 has charged that Dr D registered medical practitioner, was convicted by the District Court at xx of the following offences, each being an offence punishable by imprisonment for a term of three months long or longer:

1. Sexual violation by unlawful sexual connection

Section 128 and 128B Crimes Act 1961 (2)

2. Indecent Assault

Section 134(2)(A) Crimes Act 1961

3. Indecent Assault

Section 134(2)(A) Crimes Act 1961 (3)

4. Indecent Assault

Section 135 (a) Crimes Act 1961(4)

5. Indecent Assault

Section 133(1)(a) Crimes Act 1961

6. Attempted Indecent Assault

Section 311 and 133 (a) Crimes Act 1961

and the circumstances of the offences reflect adversely on Dr D's fitness to practice medicine.

**2. CAC's CASE:**

2.1 ON 8 May 1996 Judge Cadenhead convicted and sentenced D in respect of 11 charges arising out of sexual offending involving xx. There were two counts of sexual violation and the remaining counts were either indecent assault or attempted indecent assault.

**2.2** **THE** offending was serious and appears to have been sustained offending over a period of seven years.

**2.3** **JUDGE** Cadenhead sentenced Dr D to a total sentence of six years imprisonment. Information provided by the Prison indicates that Dr D is likely to be released from prison sometime this year. They are not able to be specific about the actual release date.

**2.4** **MS** McDonald submitted this is an appropriate case for interim suspension for the following reasons:

- This was serious offending over a sustained period of time. There appears to be a lack of insight in to the seriousness of the offending by Dr D.
- It is noted that the pre-sentence report obtained for the purpose of sentencing recommended that a psychiatric report be obtained. Dr D declined to have a psychiatric assessment for the purposes of sentencing.
- Given the uncertainty as to the release date and the possibility that Dr D may attempt to practice or at the very least offer medical advice while in prison, the CAC believe interim suspension is appropriate in this case.
- Given the nature of correspondence sent to the CAC by Dr D there are concerns regarding Dr D's mental and emotional state.
- It is in the public interest that an order for interim suspension is made.

### **3. DR D's CASE:**

**3.1** **THE** circumstances of the offences of which he was convicted do not reflect adversely on his fitness to practice medicine.

**3.2** **THERE** is no evidence that any of his patients have ever made any complaints about any aspect of his practice as a medical doctor. Dr D does not practice medicine and any argument that he may start to practice medicine in prison is spurious and has no substance.

**4. ORDER:**

**4.1** **SECTION** 104 of the Act provides, at any time after a notice has been given under Section 103(1) of the Act to a medical practitioner, the Tribunal may, if it is satisfied that it is necessary or desirable to do so having regard to the need to protect the health or safety of members of the public, make an order that, until the disciplinary proceedings in respect of which that Notice was issued have been determined, suspend the registration of that medical practitioner. The Tribunal may make an interim suspension order on the recommendation of a Complaints Assessment Committee.

**4.2** **AN** order is made that registration of Dr D be suspended until the disciplinary proceedings against him have been determined.

**5. REASONS FOR ORDER:**

**5.1** **PRINCIPALLY** the interim suspension order has been made in terms of a perceived need to protect the health and safety of members of the public. That Dr D should not be able to practice medicine while in prison, is not a major anxiety.

**5.2** **OF** greater concern is that Dr D could be released from prison before the Tribunal has had an opportunity to consider the charge which has been laid against him. Given Dr D's expressed intention, by counsel, to fully defend the charge, it is clear

to us that he has every intention of re-entering medical practice on his release from prison, unless prevented by order of the Tribunal.

**5.3** **BECAUSE** release date from prison is uncertain, the Tribunal therefore considers it is justified in making this interim suspension order. As Ms McDonald has so rightly argued, the offending was serious, and appears to have been sustained over a period of seven years. Obviously issues of the health and safety of members of the public require consideration and determination by the Tribunal.

**DATED** in Auckland this 18<sup>th</sup> day of March 1999

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P J Cartwright

CHAIR