

Medical Practitioners Disciplinary Tribunal

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DECISION NO.: 78/99/41C

IN THE MATTER of the MEDICAL PRACTITIONERS
ACT 1995

AND

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

BEFORE THE MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

HEARING by telephone conference on Tuesday 15 June 1999

PRESENT: Mrs W N Brandon - Chair

Dr I D S Civil, Ms S Cole, Dr J W Gleisner, Dr J M McKenzie

(members)

APPEARANCES: Ms J Elliott for Complaints Assessment Committee

Mr B Squire QC and Ms G Phipps for respondent

Ms G J Fraser - Secretary

(for first part of call only)

DECISION ON THE APPLICATIONS

1. The following applications were heard by the Tribunal by Teleconference this morning:
 1. Application in terms of section 106(2) of the Medical Practitioners Act 1995, for Suppression of Name and Particulars of Identification on behalf of Dr E.
 2. Application on behalf of Dr E for Orders for Production of Medical and other Records.
 3. Application on behalf of the Complaints Assessment Committee for Orders for Production of Videotapes.
2. This matter is scheduled for hearing on Monday 2, Tuesday 3, Wednesday 4 and Thursday 5 August 1999.
3. Mr Squire QC, Counsel for the respondent applicant indicated to the Tribunal that there are outstanding issues in relation to the provision of Particulars supporting the charge. Mr Squire asked that the Tribunal record his concerns in relation to this issue, especially that, notwithstanding a request for further particulars made three months ago, no such particulars have yet been provided.
4. Ms Elliot who attended the telephone conference on behalf of the CAC confirmed that the briefs of evidence of the witnesses to be called on behalf of the CAC have been given to respondent's Counsel. Ms Elliot, also advised that a facsimile letter was forwarded to Ms Phipps yesterday and that the CAC is seeking a meeting with Mr Squire and Ms Phipps to discuss the issue of particulars further.
5. However, subject to the outcome of any such meeting to discuss the issue, Mr Squire indicated his continuing concerns and advised that a formal application in this regard may be made to the Tribunal.
6. Given the age of the matters at issue in this matter, and effects of it on the respondent, which were the subject of affidavits filed in support of the applications made by the respondent, the Tribunal

is concerned that this matter not suffer any delays which might cause the hearing date to be vacated.

7. In order that the outcome of the applications is known prior to any further discussions between Counsel, and to assist the possible resolution of the issues regarding particulars, the Tribunal wishes to advise its Decision on the applications dealt with this morning and its reasons for its Decision will be forwarded to the parties as soon as possible.
8. Accordingly, the Tribunal makes the following orders:
 - (a) That the publication of the name of Dr E and/or any particulars likely to lead to his identification as a person subject to disciplinary proceedings before the Tribunal is prohibited pending the outcome of the hearing of the Disciplinary Charges dated 23 February 1999, and/or further order of the Tribunal;
 - (b) That any medical records, or copies thereof, concerning or relating to the complainants' treatment, counselling or therapy for the period of twelve (12) years prior to the Complainants' admission to xx *which were provided, delivered or otherwise made available to the respondent at the time of their admission into his care* and which are within the power or possession of the complainants, are to be provided to the respondent and his legal advisers only for the purposes of preparing and conducting the respondent's defence;
 - (c) The order numbered 8(b) is made in relation to the following:
 - (i) psychiatric in-patient and out-patient notes and records;
 - (ii) counselling notes and records;
 - (iii) medical notes and records;
 - (iv) other notes and records.

- (d) That the complainants are to verify the information supplied as to accuracy and completeness by statutory declaration;
- (e) That the application for production of records of the nature described in paragraph 8(c) for the further period since the discharge of the complainants from xx up until the present time is dismissed;
- (f) That the application by the CAC for an order for the production of videotapes is adjourned on the basis of an undertaking from Mr Squire that the respondent's legal advisers will continue to make inquiries as to the existence or otherwise of any videotapes which may be relevant to the events at issue and will advise the CAC accordingly;
- (g) Leave is granted to the CAC to renew its application in the event any videotapes relevant to this proceeding are located.

DATED at Auckland this 15th day of June 1999.

W N Brandon

DEPUTY CHAIR