

Medical Practitioners Disciplinary Tribunal

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DECISION NO.: 75/99/42D

IN THE MATTER of the MEDICAL PRACTITIONERS
ACT 1995

AND

IN THE MATTER of disciplinary proceedings against **COLIN
FREDERICK WAKEFIELD** medical
practitioner of Havelock North

BEFORE THE MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

TRIBUNAL: Mr P J Cartwright - Chair

Mr P Budden, Dr R S J Gellatly, Dr J M McKenzie,

Dr D C Williams (members)

COUNSEL: Ms T Davis Director of Proceedings

Ms J Gibson for respondent

Ms G J Fraser - Secretary

DECISION ON THE PAPERS:

1.1 **THE** Director of Proceedings of the Health & Disability Commissioner has determined pursuant to Sections 102 and 104 of the Medical Practitioners Act 1995 that a complaint against Dr Colin Frederick Wakefield (Dr Wakefield) shall be considered by the Medical Practitioners Disciplinary Tribunal (the Tribunal). The charge against Dr Wakefield has been set down for hearing in Napier on 30 June 1999. Application has been made by the Director of Proceedings for suppression of the complainant's name under Section 106(2)(d) of the Act and additionally for the complainant's evidence to be given in private pursuant to Section 107 of the Act.

1.2 **MS** Gibson has indicated that Dr Wakefield has no objection to these applications

2. ORDERS:

2.1 **PURSUANT** to Section 106(2)(d) of the Act an order is made prohibiting the publication of the name of the complainant or any particulars of her affairs.

2.2 **PURSUANT** to Section 107 of the Act an order is made permitting the complainant to give her evidence in private.

3. REASONS FOR ORDERS:

3.1 **THE** first application is a formal application pursuant to Section 106(2) of the Act which provides, 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, and to the

public interest, it may make an order prohibiting publication of the name, or any of the particulars of the affairs of any person.

3.2 **IT** is to be noted that under Section 106 of the Act the Tribunal is expressly directed to consider the public interest as well as the privacy of the complainant.

3.3 **IN** this case the Tribunal must endeavour to balance the competing interest of the privacy of the complainant against the public interest, this latter interest having been identified variously in previous cases as residing in the principle of open justice, the public's expectation of the accountability and transparency of the disciplinary process, the importance of freedom of speech and the media's right to report Tribunal proceedings fairly of interest to the public.

3.4 **IN** considering the public interest the Tribunal considers that the identity of the individual complainant in this case is simply not a matter of importance to the public. In the event of name suppression not being granted, it is likely that persons in circumstances similar to those of the complainant would be deterred from making a complaint. This in turn could undermine the function of the Tribunal.

3.5 **SO** far as the application under Section 107 of the Act is concerned, we agree that the subject matter of the charge could be construed as being of an intimate or distressing nature, and consequently it is appropriate to make an order that the complainant be permitted to give her evidence in private.

3.6 **FOR** the brief reasons given the orders sought are made.

DATED at Auckland this 10th day of June 1999.

P J Cartwright

CHAIR