



**NEW ZEALAND HEALTH
PRACTITIONERS
DISCIPLINARY TRIBUNAL**

TE RŌPŪ WHAKATIKA
KAIMAHI HAUORA

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HPDT NO **1161/Den20/497P**

UNDER the Health Practitioners Competence Assurance Act
2003 (“the Act”)

IN THE MATTER of a disciplinary charge laid against a health practitioner
under Part 4 of the Act

BETWEEN **A PROFESSIONAL CONDUCT COMMITTEE appointed by
the DENTAL COUNCIL OF NEW ZEALAND**

Applicant

AND **Dr Y of X, registered dentist**

Practitioner

TRIBUNAL Ms A Douglass (Chair)

IN ATTENDANCE Ms G J Fraser, Executive Officer
Ms A Miller and Mr T Morrison for the Professional Conduct
Committee (PCC)
No appearance by or for the practitioner

**ORDER FOR INTERIM SUPPRESSION OF THE NAMES OF THE PATIENTS NAMED IN THE
CHARGE AND MINUTE OF DIRECTIONS CONFERENCE HELD ON THURSDAY 26 NOVEMBER
2020 AT 10.05AM**

Date of hearing

[1] The hearing is set down for three days starting at 9am on Monday 19 July 2021 in Auckland.

Notice and service of documents

[2] Section 156 of the Act provides for the notice and service of documents.

[3] Under s 156(1)(c) of the Act and on 3 November 2020, the Notice of Intention to Bring and accompanying documents were sent to the practitioner by the Executive Officer at his last known email address []. No bounce back of the email or response has been received.

[4] Under s 156(1)(a) and on 3 November 2020, the Tribunal's document server was instructed to serve a copy of the Notice of Intention to Bring and accompanying documents on the practitioner at his last known address both in [] and in []. Personal service was not successful.

[5] The Chair directs that the Executive Officer exhaust all other avenues provided by s 156 of the Act, including:

(a) by sending the Notice of Intention to Bring and documents by courier to the practitioner's usual or last known place of residence or business, s 156(1)(b) of the Act; and,

(b) make attempts to locate a possible agent or relative of the practitioner living in New Zealand, s 156(3) of the Act.

[6] Once all procedural steps under s 156 of the Act have been taken to serve the Notice of Intention to Bring and accompanying documents, the Executive Officer is to file an affidavit to confirm this has been done.

[7] If necessary, leave is granted for a further pre-hearing conference to be scheduled.

Name suppression

[7] The PCC indicated that it would be making an application under section 95 of the Act for the interim name suppression of the patients named in the charge and any details that may identify them.

[8] No other application has been filed. However, given the current issue around service of the Notice of Intention to Bring and covering letter on the practitioner, the interim suppression of the practitioner's name will continue until further order of the Tribunal.

Amendment to the charge

[9] The PCC sought to amend the charge to correct the name of one of the patients named in the Charge. The patient's name appears at number 12 in the Appendix 1 to the Charge and should read "[] (N)" and not "[] (N)."

[10] The Chair agreed that the amendment was appropriate and made an order that the patient's name should be corrected.

Directions

[11] The PCC is to file all evidence and/or an agreed summary of facts by **Friday 7 May 2021**.

[12] The practitioner is to file all evidence in response by **Friday 11 June 2021**.

[13] The PCC to file an Agreed Bundle of Documents by **Monday 28 June 2021**. Such Bundle is to be all relevant document in chronological order consecutively page numbered throughout and with an index showing the date and nature of each document, by whom it is produced, and page number. Unless expressly stated in the bundle, or argued otherwise to the contrary, each document in the bundle:

- (a) is what it purports to be on its face;
- (b) was signed by any purported signatory shown on its face;
- (c) was sent by any purported author to, and was received by, any purported addressee on its face;
- (d) was produced from the custody of the party indicated in the index;
- (e) is admissible evidence; and
- (f) is received into evidence as soon as referred to by a witness in evidence, or by counsel in submissions, but not otherwise

[14] Any objections to be filed by **Monday 28 June 2021**. How and when these are processed by the Tribunal will be decided by the Chair.

[15] The Executive Officer is to distribute all documents to the Tribunal on **Friday 9 July 2021**.

General Matters

[16] Evidence to be lodged as statements and then sworn at hearing.

[17] 10 copies of the evidence to be made available to the Tribunal.

[18] Without any prejudgment of the Charge but in the event of the Charge being made out;

- (a) The parties especially the PCC, should come to the hearing prepared with suggested workable conditions to enable the Tribunal to address any conditions to be imposed under s 101(1)(c) of the Act.
- (b) If the position is reached where the PCC seeks an order for costs against the practitioner pursuant to s 101(1)(f) of the Act, a reasonably accurate calculation of the actual and reasonable costs incurred is to be produced to the Tribunal for consideration in the exercise of its discretion.

- (c) In the event the practitioner is to plead that they are not in a position to meet any financial conditions that may be imposed by the Tribunal, the practitioner is to provide clear and supported information about their financial means.

DATED at Dunedin this 6th day of December 2020

A handwritten signature in blue ink, appearing to read 'A Douglass', written in a cursive style.

A Douglass
Chair
Health Practitioners Disciplinary Tribunal