



Disgraceful Conduct – Sexual Misconduct

Charge The Director of Proceedings charged that between 14 January 2000 and 31 March 2000 the Doctor acted in such a way that amounted to disgraceful conduct in that he had an intimate and sexual relationship with his patient. The charge was admitted by the Doctor.

Background At all relevant times the Doctor was a specialist registered medical practitioner and, since 1999 was responsible for the patient's care and treatment. It was agreed that due to the nature and severity of her clinical condition the patient was a 'particularly vulnerable' patient. In January 2000, immediately prior to a period of leave, the professional relationship between the Doctor and the patient became sexualised. While he was on leave the Doctor contacted the patient by telephone and they exchanged letters. The Doctor made arrangements to meet the patient and sexual intercourse occurred in February and March 2000.

On his return from annual leave at the end of March 2000, the Doctor disclosed the situation that had developed to a supervisor. As a result of those admissions the Doctor was immediately suspended from his employment.

Following his suspension, the Doctor returned his Annual Practising Certificate and has not practised at all since March 2000. He also subsequently resigned from all professional positions and responsibilities relating to his medical practice. The Doctor has stated that he has permanently withdrawn from medical practice.

Finding The Tribunal was satisfied the Doctor was guilty of disgraceful conduct in a professional respect.

In assessing the degree of the Doctor's culpability the Tribunal was satisfied that the starting point was the Medical Council's Statement to the profession on sexual abuse in the professional relationship. This Statement was circulated to all practitioners in June 1994 and therefore was current at the time of the events giving rise to the charge. In terms of that Statement the Tribunal was satisfied the Doctor's sexual relationship with the patient fell into the most serious of the three categories; sexual violation. "Sexual violation" being defined in the Statement as "doctor/patient sexual activity whether or not initiated by the patient".

The Tribunal considers that the ethical doctor/patient relationship relies upon a doctor creating an environment of respect and trust in which a patient can have confidence and safety. The Tribunal was satisfied that misconduct of the kind alleged in this case constituted the most serious breach of fundamental professional obligations.

Penalty The Tribunal ordered: that the Doctor's name be removed from the Medical Register; that he be censured; fined \$7 500 and pay costs of \$11 847.29, being 50% of the costs of and incidental to the investigation, prosecution and hearing of the charge.

It further ordered a notice of the hearing be published in the New Zealand Medical Journal.

The full decisions relating to the case can be found on the Tribunal web site at <http://www.mpdtd.org.nz>. Reference No: 01/87D.