



SAT

State
Administrative
Tribunal

Western Australia

Medical Act 1894

IN THE MATTER OF:

Medical Board of Western Australia
-and-
Mohamed El Rakhawy

Applicant

Respondent

Matter Number: VR 131 of 2009
Application Lodged: 17 August 2009

ORDER

On the application before President, Justice John Chaney and Member Felicity Child and Senior Sessional Member Peter Winterton and Senior Sessional Member Eric Isaachsen on 13 May 2010:

The Tribunal notes that:

1. The Applicant alleges that the Respondent, being a medical practitioner within the meaning of that term in the *Medical Practitioners Act 2008* (the "Act") has acted carelessly contrary to section 76(1)(b)(i) of the Act, and, he has acted incompetently, contrary to section 76 (1)(b)(ii) of the Act in that:
 - 1.1 Whilst employed as a general practitioner ("GP") at the North Street Medical Centre ("Centre"):

In relation to Patient A:

 - (a) Patient A presented to the Respondent with a boil on her left upper thigh on 10 March 2007;
 - (b) The clinical notes for Patient A recorded that she was allergic to penicillin, with the reaction being "hives";
 - (c) Patient A informed the Respondent that she was allergic to penicillin; and
 - (d) On 13 March 2007 the Respondent gave Flucloxacillin (an antibiotic of the penicillin class) to Patient A resulting in pain to Patient A's thigh and discharge of blood.

In relation to Patient B:

- (a) Patient B presented to the Respondent with a lump on her right breast on 22 March 2007;
- (b) As part of his diagnosis the Respondent asked Patient B to monitor the lump and to return in 3 months for a review; and
- (c) The Respondent did not refer Patient B for any investigations of the lump.

1.2 Whilst employed as a GP at the Boddington Medical Centre (Boddington):

In relation to Patient C:

- (a) Patient C was attending the Respondent for monthly desensitisation injections for allergies, with such injections comprising a mixture of D pferonyssinus (70%) / 12 grass mix (30%) solution;
- (b) The prescribed monthly dosage of the allergen was 0.9 mLs;
- (c) On 28 July 2008 the Respondent administered a 5mL dose of the allergen to Patient C, which led to local swelling and widespread urticaria.

2. The Applicant alleges that the Respondent, being a medical practitioner within the meaning of that term in the Act, does not have sufficient knowledge and skill to practise medicine safely and competently, contrary to section 77(a) of the Act in that:

2.1 Whilst employed as a GP at the Centre:

In relation to Patient A:

- (a) Patient A presented to the Respondent with a boil on her left upper thigh on 10 March 2007;
- (b) The clinical notes for Patient A recorded that she was allergic to penicillin, with the reaction being "hives";
- (c) Patient A informed the Respondent that she was allergic to penicillin; and
- (d) On 13 March 2007 the Respondent gave Flucloxacillin (an antibiotic of the penicillin class) to Patient A resulting in pain to Patient A's thigh and discharge of blood.

In relation to Patient B:

- (a) Patient B presented to the Respondent with a lump on her right breast on 22 March 2007;
- (b) As part of his diagnosis the Respondent asked Patient B to monitor the lump and to return in 3 months for a review; and
- (c) The Respondent did not refer Patient B for any investigations of the lump.

2.2 Whilst employed as a GP at Boddington:

In relation to Patient C:

- (a) Patient C was attending the Respondent for monthly desensitisation injections for allergies, with such injections comprising a mixture of D pferonyssinus (70%) / 12 grass mix (30%) solution;
- (b) The prescribed monthly dosage of the allergen was 0.9 mLs;
- (c) On 28 July 2008 the Respondent administered a 5mL dose of the allergen to Patient C, which led to local swelling and widespread urticaria.

2.3 Whilst employed as a GP at the Centre:

In relation to Patient D:

- (a) Patient D had a documented history of anti-phospholipid syndrome, being a disorder of coagulation which causes blood clots (thrombosis) in both arteries and veins;
- (b) Patient D presented to the Respondent with blindness in her left eye for 20 minutes after having stopped taking her aspirin sometime prior to the presentation;
- (c) This was not recorded by the Respondent in his clinical notes for Patient D;
- (d) The Respondent did not prescribe any medication or other treatment to Patient D for her temporary blindness.

In relation to Patient E:

- (a) On 6 March 2007 Patient E, who was intellectually impaired, had been losing weight over the past three months. He presented, with his wife, to the Respondent with symptoms that included having difficulty swallowing;
- (b) The Respondent diagnosed Patient E with viral laryngitis and sent him home without taking a history and prescribing no treatment;
- (c) On 7 March 2007 Patient E's wife attended the Centre to advise that Patient E was now unable to swallow his medications even when crushed, and was now unable to swallow water. She was advised by the practice manager to send Patient E to the emergency department;
- (d) Patient E was subsequently admitted to Royal Perth Hospital ("RPH") where he remained until he died on 10 April 2007. The provisional diagnosis formed by the medical staff at RPH was:
 - (i) Respiratory failure/Aspiration pneumonia;
 - (ii) Underlying undiagnosed neurological condition causing bulbar palsy including dysphagia; and

- (iii) Copious secretions, poor cough reflex, obstructed trachyostomy with difficulty ventilating.

In relation to Patient F:

- (a) On 10 March 2007 after being involved in a motor vehicle accident in Albany on 3 March 2007, Patient A presented to the Respondent with a discharge letter and CT scan report from Albany Hospital dated 5 March 2007 which recorded, amongst other things, that Patient F had "*a little anterior wedging of the body of C7 with slight forward subluxation of C6...*";
- (b) In his clinical notes for Patient F, the Respondent recorded that nothing adverse had been detected ("NAD"), which observation was incorrect in light of the matters referred to in subparagraph (a) above.

In relation to Patient G:

- (a) Patient G presented to the Respondent on 9 June 2007 with a complaint which the Respondent noted as "*small ulcer on the right labium major and a small boil on the skin of the lt. perineum*";
- (b) The Respondent conducted screening on Patient G for a number of sexually transmitted diseases but did not conduct testing for genital herpes;
- (c) Patient G presented again to the Respondent on 16 June 2007 again with the same complaint the Respondent had noted in the subparagraph (a) above, however, the Respondent did not make any diagnosis;
- (d) Patient G presented to another medical practitioner, Dr Ann ten Seldam (Dr ten Seldam) at the Centre on 26 June 2007 with a "*blistering perineal lesion*". Dr ten Seldam suspected genital herpes so a swab of Patient G's ulcers was sent to test for the possibility of genital herpes;
- (e) The results of Patient G's Pathology test confirmed that Patient G had genital herpes.

2.4 In relation to WAGPET (Western Australian General Education and Training Ltd):

- (a) Dr Ivo Buters wrote to WAGPET by letter dated 16 August 2008;
- (b) Dr Coert Erasmus wrote to WAGPET by letter dated 18 August 2008;
- (c) Dr Buters and Dr Erasmus both expressed a view that the Respondent was generally deficient in his practice of medicine.

3. The Applicant alleges that the Respondent, being a medical practitioner within the meaning of that term in the Act has acted improperly, contrary to section 76.1(b)(iii) of the Act in that:

3.1 From 23 October 2008 to 12 June 2009 the Respondent practised as a medical practitioner in breach of a voluntary undertaking that he had given to the Applicant that he would not do so;

- 3.2 Between 31 October 2008 and 19 June 2009, the Respondent lied to the Applicant and to its solicitors, by saying that he had not been practising as a medical practitioner since provision of the voluntary undertaking:
- 3.3 In or about August and September 2008 the Respondent lied to the Medical Boards of South Australia, Tasmania and Queensland in that:
- (a) in the case of the Medical Board of Tasmania and the Medical Board of Queensland, when applying for mutual recognition, the Respondent failed to disclose that he was currently registered in Western Australia;
 - (b) in the case of the Medical Board of Tasmania and the Medical Board of Queensland, when applying for mutual sp-recognition, the practitioner;
 - (i) failed in the case of the Medical Board of Tasmania to disclose that he was the subject of one complaint in Western Australia; and
 - (ii) failed in the case of the Medical Board of Queensland to disclose that he was the subject of two complaints in Western Australia;
 - (c) in the case of the Medical Board of South Australia, when applying for renewal of his registration, the Respondent failed to disclose that he was the subject of one complaint in Western Australia.

4. The Respondent admits all of the allegations.

Being satisfied by reason of the Respondent's admissions that a disciplinary matter exists, and in order to give effect to the agreement between the parties, the Tribunal ORDERS THAT:

4.1 The Respondent be reprimanded.

4.2 The Respondent be suspended from the practice of medicine for a period of 6 months.

4.3 The Respondent must:

- (a) attend an Australian Medical Council ("AMC") Clinical Bridging Course ("Course") run by The Royal Australian College of General Practitioners ("RACGP"); and
- (b) pass the simulated 8 component multi station trial examination following completion of the Course; and
- (c) provide the Applicant with a certificate evidencing the Respondent's attendance and completion of the Course including the trial examination; and then
- (d) attend an oral examination with the Applicant pursuant to section 41(7) of the Act ("Examination"). The Examination will:
 - (i) be conducted in accordance with the Applicant's policy issued January 2010; and

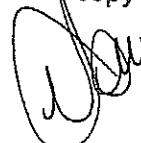
- (ii) establish whether the Respondent is competent to participate in a supervision and review programme.
- 4.4 A condition be imposed on the Respondent's registration as a medical practitioner that the Respondent is not permitted to practise medicine until:
- (a) the Respondent has provided the Applicant with a certificate evidencing the Respondent's attendance and completion of the Course including the trial examination; and
 - (b) the Applicant has determined that the Respondent is competent to participate in a supervision and review programme, following the Examination.
- 4.5 A condition be imposed on the Respondent's registration as a medical practitioner that the Respondent is not permitted to practise medicine other than in accordance with a supervision and review programme.
- 4.5.1 The supervision and review programme is:
- (a) set out in the attached supervised practice order; and
 - (b) subject to further review and approval by the Applicant's own auditor as the Applicant deems necessary.
- 4.5.2 The supervised practice order requires the Respondent to lodge with the Applicant an undertaking executed by a registered medical practitioner approved by the Applicant in the form of the attached undertaking.
- 4.6 A condition be imposed on the Respondent's registration as a medical practitioner that the Respondent is not permitted to practise medicine on the expiry of a supervision and review programme other than in accordance with such conditions as the Applicant may determine.
- 4.7 The Respondent pay the Applicant's costs of these proceedings fixed at \$15,000.00
- 4.8 The Respondent pay the amount referred to in order 4.7 within 28 days or such extended period as is agreed by the Applicant.



President, Justice John Chaney



I certify the foregoing to be a true and correct copy of the original



State Administrative Tribunal
Date: 14 MAY 2010