

Professional Misconduct (Med11/181P)

Charge

A Professional Conduct Committee (PCC) laid a charge against Dr Hong Sheng Kong (the Doctor) on the basis that he had been convicted and sentenced in the District Court on 16 counts of dishonestly using a document with intent to obtain a pecuniary advantage under section 228(b) of the Crimes Act 1963, and the offences reflected adversely on the Doctor's fitness to practise as a medical practitioner.

The offences involved the Doctor defrauding the New Zealand Government by falsely representing that patients were eligible to attract capitation based funding when they were not. The Doctor was sentenced in the District Court to a period of 12 months home detention and 400 hours community work.

A second charge was laid by the PCC which was stayed by the Tribunal by agreement.

Finding

The Doctor pleaded guilty in the District Court. The Doctor, in an agreed summary of facts, acknowledged that his conduct reflected adversely on his fitness to practise as a medical practitioner.

The Tribunal found that the convictions did reflect adversely on the Doctor's fitness to practise.

Background

Following a change to the way that funding was allocated to doctors from the Ministry of Health in 2003, the Doctor joined the AuckPac Primary Health Organisation (PHO) and was funded through them.

A feature of this structure of funding was that once a patient enrolled with a general practitioner, that practice would receive funding for that patient for three years from the date of enrolment or the date of the last consultation regardless of whether there was a consultation within that three year period.

The Doctor was required to maintain and update his patient register. The funding for the practice was honesty based and relied on practitioners to comply with the requirements and to only record patients as being enrolled if they were actually enrolled. The Doctor inflated the number of patients on his register and therefore the funding to which he was entitled. The Doctor entered false clinical notes in his patient records and wrote false prescriptions giving the impression he had seen the patients concerned when he had not. The alterations to patient records ran into the thousands in terms of individual entries and were made manually by the Doctor. Some of the

changes were made at the Doctor's direction by an employee, these were manual changes and changed patient records from blank to "confirmed registered" status. The Doctor also engaged an AuckPac contractor to run a particular computer script which automatically enrolled patients into his database for whom he was not entitled to claim.

The Doctor's conduct had a degree of naivety on his part; he was open with his staff in making the changes and approaching the contractor to invest in the computer script to make the changes. The amount of fraudulent conduct was determined to be \$183,143.59 which the Doctor had repaid in full, so there had been no direct loss caused to the Auckland District Health Board.

Penalty

The Doctor was suspended from practice for 12 months from 07 January 2012. The doctor was censured.

The Doctor was ordered to pay costs to the PCC and the Tribunal of \$12,700.

The Tribunal recommended to the Medical Council that at the resumption of practice, the Doctor undertake a full competence review and that he comply with any orders made by the Medical Council at the conclusion of that competence review.

The Tribunal referred the Doctor to the Health Committee of the Medical Council so that issues relating to his stress and depression could be considered and ordered him to comply with any conditions imposed upon him by the Health Committee. The Doctor was ordered to establish and maintain a therapeutic relationship with his medical practitioner, the identity of whom is to be advised to the Medical Council. The Doctor was ordered to authorise the medical practitioner to inform the Medical Council if at any time the Doctor's fitness to practise is in question.

The Tribunal ordered the Doctor not to have any financial interest in any practice in which he is employed, nor to have the management of that practice.

The Tribunal further ordered the Doctor advise any employer or professional medical practitioners who are working with him of the above conditions.

The Tribunal directed the decision be published on the Tribunal's website and a notice stating the effect of the decision be published in the New Zealand Medical Journal.

The full decisions relating to the case can be found on the Tribunal website at www.hpdt.org.nz
Reference No: Med11/181P.