



PROFESSIONAL STANDARDS COMMITTEE INQUIRY

**CONSTITUTED PURSUANT TO PART 12 DIVISION 1
of THE MEDICAL PRACTICE ACT 1992 to HOLD AN INQUIRY INTO
A COMPLAINT IN RELATION TO**

DR CLAUDE REITBERGER

Dates of Inquiry:	1 and 2 July 2009
Committee members:	Ms Helen Kiel, Chairperson (Legally qualified, not a registered medical practitioner) Dr Victoria Sutton (Registered medical practitioner) Dr Walid Jammal (Registered medical practitioner) Ms Jennifer Houen (Lay person)
Legal Officer assisting Committee:	Ms Bridget Andersons, NSWMB
Appearance for Health Care Complaints Commission:	Ms Katharina Buck, Hearing Officer
Appearances for Dr Reitberger	Dr Hugh Aders of Avant Mr Stephen Barnes of Counsel
Date of decision:	3 August 2009
Publication of decision:	Refer to page 13 of this decision for details of non-publication directions

SUMMARY

The Committee finds Dr Reitberger guilty of unsatisfactory professional conduct within the meaning of section 36 of the Medical Practice Act 1992 and orders that Dr Reitberger be reprimanded and that conditions be imposed on his registration requiring him a) to demonstrate his understanding of and compliance with the required standards in relation to medical records and b) to submit to audit/s of his medical records.

INTRODUCTION

1. In September 2004 Dr Claude Reitberger prescribed the drug Haldol in an unspecified dose three times within a week to a resident of a boarding house who suicided three months later. Haldol is a long-acting injectable anti-psychotic medication, usually given monthly, and sometimes fortnightly. It is most effective when given regularly. The resident concerned suffered from chronic schizophrenia and was under the care of a psychiatrist at the time who had prescribed Haldol 150mg in a fortnightly dose. The patient was seen by Dr Reitberger the day before she died on 2 December 2004, but his record of this consultation is blank and contains only the date.
2. A complaint dated 17 November 2008 against Dr Reitberger was referred by the NSW Health Care Complaints Commissioner to be dealt with by a Professional Standards Committee. It was prosecuted before this Committee by the Director of Proceedings acting as nominal complainant. The complaint against Dr Reitberger is as follows:

COMPLAINT

That Dr Claude Reitberger has been guilty of unsatisfactory professional conduct within the meaning of section 36 of the Act in that he has:

- (i) demonstrated that the knowledge, skill or judgment possessed, or care exercised, by him in the practice of medicine is significantly below the standard reasonably expected of a practitioner of an equivalent level of training or experience;
- (ii) contravened the Medical Practice Regulation 1998 and/or the Medical Practice Regulation 2003.

PARTICULARS OF COMPLAINT

At all relevant times the practitioner was a general practitioner who treated a number of residents with mental and physical illnesses living in inner city boarding houses:

1. The practitioner inappropriately administered Haldol (Haloperidol) to Patient A on 15, 18 and 21 September 2004 in circumstances where Patient A's psychiatrist had prescribed Haldol 150mg fortnightly.

2. The practitioner failed to make adequate medical records of his treatment of Patient A between 30 December 2002 and December 2004, as required by the Medical Practice Regulation, as amended, and in circumstances where the practitioner shared the care of Patient A with another general practitioner.
3. The practitioner failed to keep adequate records of his medical treatment of Patient B between June 1998 and March 2004 as required by the Medical Practice Regulation, as amended, and in circumstances where the practitioner shared the care of Patient B with another practitioner between about 2001 and March 2004.
4. The practitioner failed to keep adequate records of his treatment of Patient C between May 2003 and May 2004 as required by the Medical Practice Regulation, as amended, and in circumstances where the practitioner shared the care of Patient C with another general practitioner.

THE MEANING OF UNSATISFACTORY PROFESSIONAL CONDUCT

3. Section 36 of the Medical Practice Act 1992 states:

"Meaning of "unsatisfactory professional conduct"

For the purposes of this Act, *unsatisfactory professional conduct* of a registered medical practitioner includes each of the following:

(a) Conduct significantly below reasonable standard

Any conduct that demonstrates that the knowledge, skill or judgment possessed, or care exercised, by the practitioner in the practice of medicine is significantly below the standard reasonably expected of a practitioner of an equivalent level of training or experience.

4. The phrase "significantly below" is not defined in the Act. However in the Second Reading speech when this legislation was introduced to Parliament it was stated that:

"The first main purpose of the bill is to refocus the Health Care Complaints Commission (HCCC) on investigating serious complaints about health service providers. To achieve this, Commissioner Walker recommended that unsatisfactory professional conduct be redefined so that only significant instances involving lack of skill, judgment, or care will result in an investigation or disciplinary action. the reference to 'significant' in that context may refer to a single act or omission that demonstrates a practitioner's lack of skill, judgment or care, or it may refer to a pattern of conduct. In any individual case, that will depend on the seriousness of the circumstances of the case."

STANDARD OF PROOF

5. For the Complaint to be proved, the Committee must be reasonably satisfied on the balance of probabilities that Dr Reitberger's conduct satisfies the

statutory definition of unsatisfactory professional conduct. As stated in *Briginshaw v Briginshaw* (1938) 60 CLR 336 "*Reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or facts to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal. In such matters 'reasonable satisfaction' should not be produced by inexact proofs, indefinite testimony, or indirect inferences*".

EXHIBITS

6. The Committee has considered the following documents which were provided by the parties prior to the hearing, documents numbered 1 to 24 from the HCCC (Exhibit 1) and 1 to 2 from Dr Reitberger. At the commencement of the hearing the HCCC also tendered the curriculum vitae of its experts, Dr Ian Chung and Dr Michelle Meltzer. On behalf of Dr Reitberger, Dr Aders tendered a letter from Avant to the HCCC dated 1 June 2009 containing objections to particular parts of the expert report of Dr Michele Meltzer dated 4 April 2008.

PRELIMINARY ISSUES

The Practitioner

7. Dr Reitberger was born on 7 September 1937. He is now 71 years old. He obtained his MBBS in 1960. From 28 December 1960 until 9 September 1992 he was registered in the General category of registration. From 10 September 1992 until 20 October 2003 the following conditions were imposed as a result of action taken under section 32E of the Medical Practitioners Act 1938. His registration status was then **registered** in the **general category** with **conditions**. These conditions were:
 - a. That Dr Reitberger substantially reduce the number of nursing homes and boarding houses he attends and that such nursing homes and boarding houses he continues to attend be located in the Inner West area of Sydney.
 - b. That Dr Reitberger submit to the New South Wales Medical Board such records of his practice that it may from time to time require.
 - c. That Dr Reitberger be visited from time to time during the next two years by a person deemed to be appropriate by the Board for the purposes of preparing a report on the standards of care and record keeping in his practice and /or his practice generally.
8. On 21 October 2003 the conditions on Dr Reitberger's registration were lifted and his registration status was **registered**.
9. On 18 and 19 August 1992 a Professional Standards Committee inquired into a complaint against Dr Reitberger. The complaint alleged lack of care and

judgement in relation to his treatment and management of a number of patients in a nursing home and the failure to maintain proper medical records. Dr Reitberger conceded before the Committee that he may have underestimated the severity of the condition of some of his patients and that he had been too busy, and attending too many nursing homes. He stated that he had reduced his workload and the number of nursing homes attended and employed an assistant. The Committee found Dr Reitberger guilty of professional misconduct.

10. On 8 February 1999 a Medical Tribunal inquired into three complaints against Dr Reitberger in relation to claims on the Health Insurance Commission and omissions and discrepancies in his patient record cards in relation to such claims, and in relation to the dates of prescriptions under the Pharmaceutical Benefits Scheme. The Tribunal noted the "very unsatisfactory and abnormal situation" that existed in boarding houses at the time, that all the patients mentioned in the complaint had chronic psychiatric illnesses, and that very few general practitioners were prepared to provide medical services on the required continuing basis at the boarding houses. The Tribunal also noted that the charges Dr Reitberger had to meet in effect related solely to records, and in no way suggested any improper treatment of patients. It dismissed the complaints against Dr Reitberger.

Objections to documents

11. On behalf of Dr Reitberger, Mr Aders objected to parts of Dr Meltzer's report, as noted above. Having heard argument from the HCCC in relation to the objection, the Chairperson upheld the objection on the basis that the relevant parts of Dr Meltzer's report did not specifically relate to the particulars of the complaint.

Admissions

12. At the Directions Hearing prior to the commencement of the hearing, Dr Reitberger admitted Particulars 2, 3 and 4 of the complaint, leaving only Particular 1 in dispute.

ISSUES

13. The issues to be determined by this Committee are whether the Committee is comfortably satisfied on the balance of probabilities that the particulars of the complaint are proved, and if so whether the conduct amounts to unsatisfactory professional conduct. If a finding of unsatisfactory professional conduct is made, the Committee must also determine what protective orders are appropriate pursuant to section 61 of the Act.

BACKGROUND

14. Dr Reitberger's responses to the complaint and his signed statement dated 14 May 2009 provide the context for the events which led to the complaint. In his response dated 8 June 2006 Dr Reitberger states that in 1965 he went into

partnership with another doctor in a standard suburban general practice situated in the inner western suburbs of Sydney, where as a result of deinstitutionalization in the 70s and 80s, large numbers of people were removed from psychiatric institutions and placed in the community. The majority of these people found their way to private boarding houses in the area. Dr Reitberger states that throughout this period he was increasingly requested to attend to people in such boarding houses who needed to be seen by a general practitioner, whilst their overall treatment regime was provided by each patient's treating psychiatrist. Principally Dr Reitberger ensured that each patient was complying with their medication regime and observing how they were coping with it, and that he also dealt with whatever other medical conditions patients presented if requested to do so. In practical terms this meant that he visited particular nursing homes and boarding houses at regular times each week, attending at meal times so that most of the residents were present.

15. In 1999 Dr Reitberger's partner retired and sold the premises they had shared. Dr Reitberger then moved his practice across the road where he remained for approximately 18 months. He then decided to cease surgery practice and to concentrate on visiting boarding houses and nursing homes. He also commenced working occasionally at Burwood Medical Centre. He now works there every Sunday from about midday until 7 – 8pm. He also works there occasionally when other doctors are away.
16. Dr Reitberger's statement dated 14 May 2009 indicates that he currently sees patients at four nursing homes and five boarding houses. He is effectively on-call every day for the nursing homes and boarding houses but only attends the nursing homes when he is called to see an ill patient or write out a prescription or chart. He attends the boarding houses on a regular basis, largely for the purpose of administering regular medication. In addition he treats any other problems if the patients seek his advice, and all patients are bulk billed. He attends at meal times or early in the morning so that patients will be present and not miss their medication. He states that the patients are often impatient and argue among themselves while waiting to be seen. In treating patients, Dr Reitberger is reliant upon the managers of the boarding houses communicating to him their observations of particular patients. According to Dr Reitberger, standard attendance upon a patient includes giving injections, "seeing how a patient is going", making an assessment of mental capacity and attending to anything else the patient requires such as referrals to specialists, hospitals or for tests or investigations. Dr Reitberger states that he works in conjunction with the Boarding House Team and medical specialists and hospitals.

EVIDENCE

17. The HCCC called Dr Chung and Dr Michelle Meltzer as expert peer reviewers, and Dr Reitberger called Dr Erroll Tompkins, the treating psychiatrist of Patient A, who gave evidence by telephone. It is significant to note that all three of these witnesses were unanimous in their opinion that had they observed Patient A as being over-sedated, as Dr Reitberger did, they

would have withheld the alleged doses of Haldol. Both Dr Chung and Dr Meltzer were strongly critical of Dr Reitberger in this respect. Although Dr Tompkins was not critical of Dr Reitberger, he said that if he observed the patient to be over-sedated he would have give the patient a few days to settle down, and look at pharmacological causes for the patient's sedation.

18. Dr Chung, a very experienced general practitioner, states in his report dated 11 May 2007 that the administration of Haldol on three occasions within one week, as alleged in the complaint, is a very unusual approach to the administration of this drug, and that he is unaware of any guidelines that recommend this approach. He notes that neither Dr Reitberger's clinical notes nor his response to the complaint provide an adequate explanation of his clinical approach. He also states that the failure to adequately document the consultations on 15, 18 and 21 September 2004, given the unusual clinical approach, is an unsatisfactory practice. Dr Reitberger's conduct attracted his severe criticism.
19. Dr Meltzer provided a report for the Health Care Complaints Commission dated 4 April 2008. Dr Meltzer is a Career Medical Officer in community psychiatry with experience in treating persons with a diagnosis of schizophrenia and who are living in the community. She has no formal psychiatric qualifications. She is currently employed by the Ryde Community Mental Health Service as a CMO in community psychiatry and has been there for fifteen years.
20. Referring to Dr Reitberger's administration of Haldol to patient A, Dr Meltzer says in her report:
"Whether one judges by the notes, or the Medicare billings, it is clear that Dr Reitberger did not give (patient A) her fortnightly injections regularly. There are months where he has documented giving the drug once only in a month, times when it appears to have been given weekly, and the notable week where she received it three times in a week. Haldol injections are known to have their best effect when given regularly..... I feel that this behaviour is significantly below the expected standard. Dr Reitberger said that he was visiting the boarding house regularly, but did not give the injections regularly, nor consult with the treating psychiatrist. If he had time to bill Medicare, he should have had time to write a brief reason for a variation in dosing. It would invite my strong criticism."
21. In evidence Dr Meltzer said that she had never seen Haldol given more often than fortnightly, and that if a patient was acutely psychotic she would give an oral short-acting form of drug as a top-up, as she could see no benefit in giving the alleged dosages as set out in the patient record. In evidence and under cross-examination Dr Meltzer stood by her strong criticism of Dr Reitberger.
22. Dr Erroll Tompkins was the treating psychiatrist for Patient A and provided a report dated June 3 2009 in support of Dr Reitberger's management of the patient. He states in his report:

" As to Dr Reitberger only giving her 50 mg when he found her overly sedated, I think this showed caution on his part and well within his ability to make such a judgment as he sees a large number of patients previously cared for in psychiatric institutions now living in boarding house accommodation in the community. I presume he felt obliged to check on her shortly after giving the reduced dose and when satisfied that it is appropriate, gave her the other doses of 50 mg.

I agree with Dr Meltzer that three doses of Haldol in one week would not be of benefit in an acute exacerbation of schizophrenia, but this was not the reason for his giving it that way. His hesitation in giving the 150 mg as ordered, was anxiety regarding her level of sedation and fear that other drugs may have been introduced or involved. He showed caution, and I presume, as he became satisfied that it was safe, gave the other 50 mg doses such that the patient received the ordered dose of 150 mg within a few days of the appropriate time. I think this demonstrated clinical judgement and appropriate caution."

23. Dr Reitberger gave evidence that he has been involved since the late 60's with chronically ill people in boarding houses. He explained that the Boarding house where Patient A lived was owned by a husband and wife who were both psychiatric nurses. The consulting room was a very small room with a desk and sometimes a telephone, and a hand washing facility, but there were no facilities for medical record writing. Intramuscular injections were given in this room. If a patient needed a physical examination this would take place in the patient's room. All patient medications were kept at the boarding house, and delivered in webster packs from the pharmacy so that they could be dispensed on a daily basis. Dr Reitberger said that the Boarding House Team often stipulated that a patient's dose or medication should be changed without contacting him. He said that "people" tried to manipulate Patient A's medication as she would go on binges. He said that the Boarding House Team were opposed to the medication Patient A was on, but that she rarely wanted to take her medication orally. He said he tried to be wary when he found Patient A over-sedated, and that it was easy to subdivide the Haldol dose into three 50mg doses. He said that he did not have individual records for nursing home patients as they were kept at the nursing home, but he kept some original notes for boarding house patients in his office which went missing when it was being repainted. He only had the record for Patient A. He stated that he was aware of the Medical Practice Regulation that he keep his original notes for seven years, but said he only kept copies instead. It was clear that Dr Reitberger did not have a consistent record-keeping system in place.

24. Dr Reitberger was asked whether there had been any improvement in his medical record keeping as a result of the earlier Professional Standards Committee finding against him. He stated that whereas once he didn't have any records, his records in relation to Patient A showed change. When asked why his improvement was so limited he said *"That's a question and a half. Laziness I suppose is the answer"*. He said that he had never attended any seminars on record keeping because he didn't know there were any.

25. He said that he now sees about 100 patients a week and worked long hours. On Sundays he works at Burwood Medical Centre for approximately 8-10 hours and sees about 30-40 patients per session. He also does boarding house and nursing home visits five days per week and his recording of visits is done afterwards.
26. In relation to Patient A he stated that she was not responding as she normally did and he based his assessment of her on the way she walked in but did not remember conducting any physical examination of her. He stated that he had no specific memory of giving the patient three doses of Haldol over a six-day period. He said that sometimes he learned of changes in the patient's medication by accident, as changes made by the Boarding House Team were sometimes in the notes and sometimes they were not. Dr Reitberger indicated that it was possible that there had been a change in Patient A's medication when she presented as being over-sedated.
27. In terms of his continuing medical education he has gained 180 points in the past two years, and said he would willingly undertake a course on record-keeping if he was advised where to do it. He stated that he is not very good with computers but intends to improve.
28. In conclusion Dr Reitberger said he had significantly reduced his practice and was planning to slow down and retire. He did not say when.

SUBMISSIONS

HCCC's submissions

29. The Commission noted in its written submission that the three experts who gave evidence before the Committee were in agreement that in a situation as described by Dr Reitberger they would have withheld the dose and assessed the patient to ascertain why she appeared overly sedated. The Commission submitted that Dr Reitberger's administration of Haldol three times within one week was in contrast to accepted therapeutic standards and in the absence of any reasons as to why the patient's regular medication regime had been changed amounts to conduct significantly below the expected standard.
30. The Commission acknowledged Dr Reitberger's admissions in relation to particulars 2, 3, and 4 and submitted that despite previous disciplinary findings and the imposition of practice conditions "*..it appears that the Respondent's understanding and appreciation of the purpose of medical records and his approach thereto, remains unchanged, and this suggests, at the minimum, a considerable lack of insight on behalf of the practitioner.*"
31. The Commission further noted that in 1992, the Respondent gave evidence that he visited 10 to 20 nursing homes and the same number of boarding houses, resulting in a condition that he considerably reduce the number of facilities he attends. It pointed out that according to his latest statement dated 14 May 2009, the Respondent now, 17 years later, works long hours, attends,

and is on-call for, 4 nursing homes and 5 boarding houses and also works in a medical centre one afternoon per week. It was noted that Dr Reitberger gave evidence that he writes his medical notes for the boarding house residents he sees, at home after work. The Commission submitted that if Dr Reitberger's workload does not allow him to adequately fulfill his duty to maintain adequate patient records, the Committee should consider imposing an order that he reduces the number of nursing homes and boarding houses he attends.

32. The Commission sought the following protective orders:
- a. *That Dr Reitberger be reprimanded.*
 - b. *That Dr Reitberger submits to an audit by an auditor appointed by the Board within the first six months of the Committee's decision, which would include:*
 - a. *a random case record review of a number of records specified by the Board;*
 - b. *direct observation of Dr Reitberger's clinical practice in relation to a number of patients specified by the Board.*
 - c. *That such audit be repeated from time to time as required by the Board.*
 - d. *Dr Reitberger reduces the number of nursing homes and boarding houses he attends as specified by the Board.*
 - e. *Dr Reitberger authorises and consents to any exchange of information between the Board and Medicare Australia where such exchange is necessary to facilitate the monitoring of compliance with these conditions.*

Dr Reitberger's submissions

33. On behalf of Dr Reitberger it was submitted that, in relation to Particular 1 pertaining to Haldol administration, the Committee cannot be comfortably satisfied that it is proven and that the evidence regarding the facts of this particular was unreliable, partly because of the unsatisfactory records, and partly because of the time (five years) that has elapsed since the incident concerned. Moreover, there was strong support from Dr Tompkins for Dr Reitberger's dose reduction in the face of doubt about the patient being excessively sedated.

34. It was submitted that a reprimand is all that is necessary in this case as Dr Reitberger has undertaken to improve his record keeping to the requisite standard. It was also submitted that, if the findings of this PSC are published in electronic form on the NSW Medical Board's website, such publication should cease at the elapse of 12 months after the decision of this Committee is handed down, or when any conditions of registration imposed have been complied with, whichever the later.

DISCUSSION

35. The evidence in relation to Particular 1 regarding the administration of Haldol three times in one week comes from Dr Reitberger's own notes. Dr Reitberger stated in evidence that he had no specific memory of giving Patient A the Haldol over a six day period. When he wrote to the Ombudsman on 8 June

2006 he stated that *"..... What I probably did was to give her a smaller dose on each occasion, appropriate to her presentation..."*. Dr Reitberger's evidence was however, that he writes his notes retrospectively, and the Committee does not therefore find them reliable. There is no independent evidence of Patient A being given the doses of Haldol claimed by Dr Reitberger, or to support the particular that he even gave her the Haldol on the dates stated in his notes. The HIC records are inconsistent with Dr Reitberger's dates. However irrespective of whether or not the Haldol was actually administered as alleged, Dr Reitberger's notes do indicate that he considered three 50mg doses in one week to be appropriate, causing serious concern not only to Dr Chung and Dr Meltzer about his clinical management of this patient, but also to the Committee itself.

36. Dr Reitberger's poor record keeping has been a persistent complaint against him, and he still shows little or no insight into the need for adequate records. His attitude to record keeping can only be described as cavalier. In relation to Patients B and C he was unable to provide his notes and admits his failure to keep adequate records for these patients. The standard of Dr Reitberger's record keeping cannot be seen in isolation from his overall treatment and management of patients, and raises grave concerns in this respect. The minimal record-keeping is particularly relevant given his own evidence that changes in patient medications made by the Boarding House Team were sometimes recorded in the notes, and sometimes they were not. The paucity of Dr Reitberger's notes raise significant concerns about his history taking, physical examination, investigations, diagnostic process, prescribing, and decision making in relation to his patients. In the Committee's view, poor record-keeping fails to protect patients, and at times may be positively dangerous.
37. Dr Reitberger's patients in boarding houses and nursing homes are a particularly vulnerable group, as many are disabled and suffer from chronic medical and psychiatric conditions. Such patients are likely to require more than a fleeting visit from a general practitioner who routinely simply re-writes their prescriptions and rarely makes notes in relation to any other medical conditions or symptoms. Notwithstanding the lack of independent evidence and the paucity of the clinical records, Dr Reitberger's oral evidence raised serious concerns about his level of clinical acumen, clinical input, and judgment in assessing patients like Patient A. The Committee is mindful of the depressing and sub-standard conditions in which many residents in boarding houses are forced to live, and which the Tribunal alluded to in its decision in March 1999. However it is the Committee's view that such conditions do not justify sub-standard or no record keeping, particularly when the failure to keep adequate records can have a significant impact upon the management and treatment of patients.
38. Although it was submitted on Dr Reitberger's behalf that he would in future comply with the Medical Practice Regulation in relation to record-keeping, the Committee could have little faith that he would do so in view of his history in this respect.

FINDINGS

39. The Committee must be reasonably satisfied of any findings that it makes. The Committee has considered the written and oral evidence and the submissions by the parties. It does not find Particular 1 of the complaint proved, although it is quite possible that Dr Reitberger did provide Haldol to Patient A as his notes indicate. It finds Particulars 2, 3 and 4 proved. The Committee finds that Dr Reitberger's conduct amounts to unsatisfactory professional conduct within the meaning of section 36 (1) (a) and (b) of the Act in that Dr Reitberger has demonstrated that the knowledge, skill or judgment possessed, or care exercised, by him in the practice of medicine is significantly below the standard reasonably expected of an experienced general practitioner and that he has contravened the regulations.

ORDERS

40. In determining the orders it should make the Committee is mindful of the fact that the jurisdiction is protective, not punitive (*HCCC v Litchfield* (1997) 41 NSWLR 630.) It is also, however, mindful of the principle of deterrence, both in relation to Dr Reitberger and to the wider community of medical practitioners.
41. Pursuant to section 61 of the Medical Practice Act 1992 the Committee orders:
1. That Dr Reitberger be reprimanded.
 2. That the following conditions be imposed on Dr Reitberger's registration:
 - a. For the purpose of a Board review of Dr Reitberger's understanding of and compliance with the Medical Practice Regulation 2008 and the RACGP Standards for General Practices 3rd edition as it pertains to records in standards 1.7 and 4.2:
Dr Reitberger is to provide to the NSW Medical Board within 2 months of the date of receipt of this Decision:
 - i. A summary prepared by him of the Medical Practice Regulation 2008 Part 2 "Records" and Schedule 1 "Records relating to patients"; this summary must include what information must be included in a patient record.
 - ii. A summary, prepared by him, of the RACGP Standards for General Practices 3rd edition as it pertains to records in standards 1.7 and 4.2.
 - iii. An overview of the steps he has taken to ensure that his patient records accord with the Medical Practice Regulation 2008 Part 2 and Schedule 1 and the RACGP's guidelines for patient records.

- iv. A copy of the records of ten patients who have attended for a consultation with him since the date of this Decision.

- b. Within 6 months from the date of this Decision, and subsequently at intervals as determined by the Board, he is to submit to an audit of a number of randomly selected records as specified by the Board by a person or persons nominated by the NSW Medical Board. The auditor(s) are to examine the records in relation to appropriate record keeping of his medical practice such as history taking, physical examination, investigations, diagnostic processes, prescribing, and decision making.

- c. Dr Reitberger is to authorise the auditor to provide the NSW Medical Board with a report on his/her findings. On the basis of the audit reports, the NSW Medical Board will determine if any other action is required. Dr Reitberger is to meet all costs associated with the audits and any subsequent reports.

- d. That Dr Reitberger authorises and consents to any exchange of information between the Board and Medicare Australia where such exchange is necessary to facilitate the monitoring of compliance with these conditions.

- e. The Board is the appropriate review body for the purpose of a review under Part 6 Division 3 of the Medical Practice Act and these conditions may be varied, amended or removed at the discretion of the NSW Medical Board.

The Committee considers that it is important that the Board's record selection process should ensure that records of Dr Reitberger's practice in boarding houses are included in any audit/s.

PUBLICATION OF DECISION

- 42. Pursuant to section 180(1) of the Act the Committee provides copies of this written statement of decision to the Dr Reitberger, the Health Care Complaints Commission and the Board.

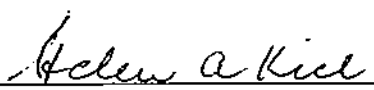
- 43. At the conclusion of the hearing it was submitted by Dr Reitberger's representative that unlimited electronic publication of these proceedings by the Board would constitute a stigma and punishment entirely out of proportion to the gravity of the matters complained of and that there was no public interest in having such details available on the worldwide web on an indefinite basis. In view of Dr Reitberger's history, however, this submission is rejected.

NON- PUBLICATION ORDER

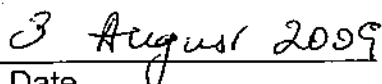
44. At the commencement of the hearing, pursuant to Schedule 2 Clause 6 (b) of the Medical Practice Act 1992 a non-publication order was made in relation to the names of the patients.

APPEAL

45. An appeal against this decision is available under section 87 of the Act, or section 88 if the appeal is with respect to a point of law. Such an appeal is to be made within 28 days of the handing down of the decision (or such longer period as the Registrar may allow in any particular case).



Ms Helen Kiel
Chairperson



Date