



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 EMMANUEL WILLIAM VARIPATIS

Date of Inquiry:	15 September 2009
Committee members:	Ms Geri Ettinger, Chairperson (Legally qualified, not a registered medical practitioner) Dr Saw Hooi Toh (Registered medical practitioner) Emeritus Professor Walter Glover, AO (Registered medical practitioner) Ms Jennifer Houen (Lay person)
Appearance for Health Care Complaints Commission:	Ms Lisa Fackender, Hearings Officer
Appearance for Dr Varipatis Legal Officer assisting Committee:	Mr Toby Biddle, Deacons Lawyers, Dr David Gorman, MIPS Ms Bronwyn Sharp, Legal Officer
Date of decision:	10 November 2009
Publication of decision:	Non-publication directions have been made in relation to the name of the patient and the medical practitioner from whom the Complaint emanated.

SUMMARY

1. Dr Emmanuel Varipatis is a general practitioner with an interest in, and training in complementary and integrative medicine. He uses IV Vitamin C therapy, and in 2004/5, provided that treatment to a patient with renal disease in circumstances where he was not aware of, and did not have experience in relation to the likely adverse outcomes of the interaction of IV Vitamin C therapy and renal disease. Dr Varipatis did not inform himself sufficiently, neither did he contact the treating renal specialist about his patient, who then suffered severe consequences. We found he has breached section 36 of the *Medical Practice Act 1992*, and is guilty of unsatisfactory professional conduct. We have, accordingly, reprimanded him.

BACKGROUND

2. Dr Varipatis is a registered medical practitioner, MPO 163806, whose date of birth is 19 July 1954. He has an interest in, and practises in complementary and integrative medicine. At all relevant times, and indeed currently, he is engaged in a group practice called YourHealth, Integrative Medicine.
3. Effective on 29 June 2006, Dr Varipatis' registration was made subject to the following conditions which remained in place at the time of the Inquiry. We noted there was no disagreement that he had complied with the Conditions which are as follows:

Practice Conditions

1. Before instigating intravenous Vitamin C treatment on patients with a known history of renal calculi, known or suspected renal disease, or strong family history of renal calculi or renal disease, Dr Varipatis is to assess those patients by performing a 24 hour creatinine clearance rate test and a post ascorbate loading test 24 hour urinary oxalate measurement.
2. (1) Dr Varipatis is to submit to an audit of his medical records before 20 December 2006, by a person or persons nominated by the Board, and to subsequent audits as required by the Board, for the purpose of examining and assessing his practice of medicine and producing a report for the Board in relation to
 - a. documentation of satisfactory communication with his patients' other treating medical practitioners, including specialists, about clinically relevant treatment being provided to the patient.
 - b. records of his appropriate clinical monitoring and ongoing evaluation of treatment/s he is providing to his patients
 - c. evidence of a frank discussion of the risks involved for the patient before instigating any non-conventional treatment that might possibly carry risks of significant adverse reactions.

- (2) Dr Varipatis is to meet all the costs associated with the audit/s and the auditors' report/s prepared for the Board.
3. Dr Varipatis is to provide copies of the conditions on his registration to all the doctors in his practice by 31 July 2006.
 4. The Health Care Complaint Commission's (HCCC) peer reviewer, Dr J Bunker who gave oral evidence before the Inquiry, and provided written reports dated 27 August 2006 and 3 June 2007, is a general practitioner. He was made a Fellow of the Royal Australian College of General Practitioners in 1994. He informed the Committee that he did not have personal experience in the use of IV Vitamin C, which is an "off label" therapy.
 5. Dr Toh of the Committee told the Inquiry that she and Dr J Bunker, the peer reviewer had had a cordial professional relationship for some years. Neither Dr Toh nor Dr Bunker considered there was a conflict of interest in Dr Bunker giving evidence at the Inquiry, and no objections were recorded. The matter proceeded with both doctors in their respective roles.
 6. Dr Varipatis also gave oral evidence before the Inquiry.
 7. The Professional Standards Committee (the Committee) noted that the practitioner admitted all the Particulars of the Complaint, however did not agree that he had breached section 36 of the *Medical Practice Act 1992*, (the Act), and that he was therefore guilty of unsatisfactory professional conduct.
 8. The Committee found that the Complaint brought by the HCCC against Dr Varipatis is proven, and found that Dr Varipatis is guilty of unsatisfactory professional conduct within the meaning of section 36 of the Act. The Committee has ordered that Dr Varipatis' be reprimanded.
 9. Our reasons follow.

ONUS & STANDARD OF PROOF

10. The HCCC bears the onus of establishing that Dr Varipatis has been guilty of unsatisfactory professional conduct pursuant to section 36 of the Act, which provides relevantly:

36 Meaning of "unsatisfactory professional conduct"

(1) 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.

11. The Committee noted the admission of all the Particulars of Complaint, and notes that for the Complaint to be proven, the Committee must be comfortably satisfied on the balance of probabilities that Dr Varipatis engaged in the conduct complained of, and that this conduct satisfies the statutory definition of unsatisfactory professional conduct.

In that regard the Committee is mindful of the Court in *Briginshaw v Briginshaw* (1938) 60 CLR 336, which stated as follows:

"But 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. ..."

As noted above, the High Court has ruled that decisions by bodies similar to this Professional Standards Committee must not rely on inexact proof, indefinite testimony or indirect inferences, and these principles are applied to this decision.

12. The phrase "*significantly below*" is not defined in the Act. However, it was considered in the decision of *Re A Medical Practitioner and the Medical Practice Act* [40010 of 2007] where Judge Freeman stated:

"As a general principle, the use of the term 'significant' may in law be taken to mean not trivial, of importance, or substantial."

13. In forming our views on the matters before us, the Members of the Committee have taken into account the seriousness of the matters, the inherent likelihood of an occurrence of a given description, and the gravity of the consequence flowing from a particular finding.
14. In that context, we are mindful that Dr Varipatis who graduated in medicine from the UNSW in 1979, is a general practitioner, who is vocationally registered. Dr Varipatis told us that he has a great interest in complementary medicine and preventive medicine, and has undergone training in complementary medicine and integrative medicine since at least 1984, and on a continuing basis since. He stated that he has practised in that area since 1987. The standards by which he must practise are those of a registered general practitioner; he must also adhere to the conditions of the "NSW Medical Board Policy – Complementary Health Care", which was promulgated by the NSW Medical Board (the Board) in December 2004.
15. In coming to a decision, we have taken into account Dr Varipatis' evidence that he has made significant changes to his practice since this Complaint, and

the circumstances surrounding it. This has included amending the Consent Form to elicit increased information from patients, and communicating more frequently with other doctors who may be treating his patients. We are satisfied Dr Varipatis now understands the risks of administering high doses of Vitamin C to patients with, or at risk of developing, renal disease.

THE COMPLAINT

16. The Complaint dated 29 September 2008 against Dr Varipatis was referred by the HCCC to be dealt with by a Professional Standards Committee.
17. The Complaint against Dr Varipatis is as follows:

Dr Varipatis is guilty of unsatisfactory professional conduct within the meaning of section 36 of the Act in that he 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 a practitioner of an equivalent level of training or experience.

PARTICULARS OF COMPLAINT

18. The Particulars of the Complaint are as follows:

At all relevant times, the practitioner was a General Practitioner who used Complementary Therapies in an integrative medical practice called YourHealth at Manly, New South Wales. In 2004 the practitioner commenced treating a male patient, Patient A. Patient A was under the care of a renal physician, Dr B. The practitioner was aware of Patient A's renal disease and that Patient A was under the care of Dr B.

On 15 November 2005, Patient A was admitted to hospital with acute chronic renal failure. A biopsy revealed significant and extensive damage to the tubules of the patient's kidneys. The kidney tubules were filled with abundant 'birefringent' crystals that had the characteristics of oxalate. Dr B was of the view that the high doses of IV VC significantly contributed to the deterioration of Patient A's renal function.

Particular 1

Between December 2004 and October 2005, the practitioner consulted with Patient A and prescribed him intravenous vitamin C therapy ("IV VC") in doses and frequencies that were inappropriately high. This consisted of:

- a) 4 x 60 gram doses of IV VC between 8 December 2004 and 22 December 2004
- b) 1 x 60 gram dose of IV VC on 1 February 2005
- c) 4 x 60 gram doses of IV VC between 16 February 2005 and 14 March 2005

- d) 10 x 80 gram doses of IV VC between 10 October 2005 and 21 October 2005

Particular 2

It is alleged that during the relevant period:

- a) *The practitioner failed to adequately inform himself of potential adverse effects of using high doses of IV VC therapy to a patient with renal disease.*
- b) *Because the practitioner was not adequately informed, he failed to provide Patient A with adequate information concerning the potential adverse effects of using high doses of IV VC therapy in patients with renal disease.*
- c) *The practitioner failed to note family history made available by Patient A in the YourHealth Patient Questionnaire which indicated that Patient A could have been at special risk from the proposed IV VC treatment.*
- d) *As a result of failing to note family history, the practitioner did not consider the need to undertake screening tests to ensure that Patient A did not have an underlying defect of oxalic acid metabolism.*
- e) *The practitioner failed to communicate with Dr B about his administration of IV VC to Patient A.*
- f) *The practitioner failed to adequately monitor Patient A's clinical progress following the administration of IV VC.*
- g) *The practitioner failed to consider the significance of Patient A's elevated blood pressure readings between December 2004 and March 2005, and unusual weight gain during the final round of treatment in October 2005, and take appropriate action including contacting Dr B.*

CONSIDERATION OF THE COMPLAINT & REASONS FOR DECISION

- 19. We are mindful that it is not in dispute that Dr Varipatis practises complementary therapies in an integrative medical practice, and that he commenced treating a 49 year old male, Patient A, in 2004. Dr Varipatis was aware that Patient A suffered from renal disease, and that he was under the care of a renal physician, Dr B.
- 20. On 15 November 2005, Patient A was admitted to hospital with acute chronic renal failure. A biopsy revealed significant and extensive damage to the tubules of the patient's kidneys. The kidney tubules were filled with abundant 'birefringent' crystals that had the characteristics of oxalate. Dr B was of the view that the high doses of IV VC significantly contributed to the deterioration of Patient A's renal function.

21. Dr Varipatis admitted all the Particulars of the Complaint which we will traverse in due course, but he did not admit that he was guilty of unsatisfactory professional conduct within the meaning of section 36 of the Act.
22. In coming to a decision, we took into account all the evidence before us, and both the oral and written submissions made by the parties' representatives. We noted that Dr Bunker prepared a 2006 report, was then contacted further, considered the section 40 report prepared by Dr Varipatis, and prepared a further report in 2007. All those reports were before us.
23. Dr Gorman, as Dr Varipatis' representative, made submissions on his behalf that we disregard Dr Bunker's 2007 report because it had been prepared with the benefit of the HCCC, and solicitors' further correspondence, and in summary, bias may have intervened. We were mindful that Dr Bunker had the benefit of seeing the section 40 report before preparing his 2007 report. He also gave oral evidence at the Inquiry. The Respondent and his representatives had ample opportunity to put any issues of concern to Dr Bunker. Accordingly, we rejected the Respondent's submissions. We have taken into account both Dr Bunker's written and oral evidence, including the 2007 report.
24. We noted that Dr Varipatis agreed with the following statements:

At all relevant times, the practitioner was a General Practitioner who used Complementary Therapies in an integrative medical practice called YourHealth at Manly, New South Wales. In 2004 the practitioner commenced treating a male patient, Patient A. Patient A was under the care of a renal physician, Dr B. The practitioner was aware of Patient A's renal disease and that Patient A was under the care of Dr B.

On 15 November 2005, Patient A was admitted to hospital with acute chronic renal failure. A biopsy revealed significant and extensive damage to the tubules of the patient's kidneys. The kidney tubules were filled with abundant 'birefringent' crystals that had the characteristics of oxalate. Dr B was of the view that the high doses of IV VC significantly contributed to the deterioration of Patient A's renal function.

25. We moved then to consider the Particulars of Complaint.

Particular 1

Between December 2004 and October 2005, the practitioner consulted with Patient A and prescribed him intravenous vitamin C therapy ("IV VC") in doses and frequencies that were inappropriately high. This consisted of:

- a) ***4 x 60 gram doses of IV VC between 8 December 2004 and 22 December 2004***

- b) 1 x 60 gram dose of IV VC on 1 February 2005**
- c) 4 x 60 gram doses of IV VC between 16 February 2005 and 14 March 2005**
- d) 10 x 80 gram doses of IV VC between 10 October 2005 and 21 October 2005**

26. The above treatment regime is not in dispute, and the administration of inappropriately high doses of Vitamin C to Patient A, who was known by Dr Varipatis to have renal disease, was admitted by Dr Varipatis.
27. We have considered the reports in the HCCC documents before us, noting that of Dr M Sydney-Smith who is a vocationally registered medical practitioner, and was at the time of the report in May 2006, Adjunct Associate Professor Nutrition Medicine at the School of Health, University of New England and medical director of the Australian College of Holistic Medicine, and had been a teacher of nutrition medicine to medical practitioners for some 20 years. He described Vitamin C, and lauded its safety and utility for certain conditions, but opined that *"the use of high-dose intravenous ascorbate may be harmful in patients with i) acute or chronic renal failure ...xii) patients on Cyclosporin A therapy ..."* and other conditions.
28. We were also mindful of the report of Dr Bunker who opined that although he was not familiar with the use of intravenous Vitamin C, it was clear from the signs and symptoms which Patient A had, when presenting to Dr Varipatis, that his kidneys were not functioning normally. Dr Bunker further noted that Dr Varipatis recorded he had recommended to Patient A that he reconsider proceeding with a renal biopsy, which was an appropriate course for Dr Varipatis to recommend. He also opined that Dr Varipatis should have contacted the treating nephrologist if contemplating intravenous Vitamin C therapy. Dr Bunker also commented that with any unusual treatment, there was a greater need for the practitioner to be thoroughly versed in the potential complications, as well as indications for the therapy.
29. We were also mindful of the report of Dr P Roy, consultant physician in paediatrics and paediatric nephrology, who described Vitamin C therapy, and was critical of the history taken by Dr Varipatis regarding Patient A. He was also critical of the deficiencies in the management of Patient A when considering the Board's Policy on Complementary Health Care. He concluded that Dr Varipatis had not informed himself adequately before administering Vitamin C therapy to Patient A, who had serious kidney disease, and that it was highly probable this therapy had thus caused him harm.
30. On the basis of the evidence before it, the Committee, finds that in relation to the administration of high doses of Vitamin C to Patient A as demonstrated in Particular 1, Dr Varipatis has breached the Board's Policy on Complementary Health Care as discussed by Professor Roy. Dr Varipatis did not inform himself as he should have regarding the risks of administering high doses of

Vitamin C to a patient with renal disease, and thus caused harm to Patient A (per Dr B, treating renal physician). Accordingly we find pursuant to the requisite standard that Particular 1. is proven. We find that Dr Varipatis is guilty of unsatisfactory professional conduct within the meaning of section 36 of the Act in relation to Particular 1., in that he 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 a practitioner of an equivalent level of training or experience (Dr Varipatis' level of practice and training as discussed in his CV and above).

Particular 2

2.a) The practitioner failed to adequately inform himself of potential adverse effects of using high doses of IV VC therapy to a patient with renal disease.

31. Dr Varipatis admitted Particular 2.a). He told us that at the relevant time he had limited knowledge of the potential adverse effects of using high doses of IV VC therapy in a patient with renal disease, and had never treated a patient with nephrotic syndrome. Dr Varipatis agreed he should have informed himself better before using IV VC therapy for Patient A.
32. By way of explanation, Dr Varipatis told us that Patient A lived on a rural property, and had also been working on home renovations, so he was concerned Patient A may have been suffering from the effects of the ingestion of heavy metals. He accordingly had tests carried out to check those suspicions. Dr Varipatis also said that Patient A was quite unwell, that he had reported an adverse reaction to antibiotics, and could not tolerate Cyclosporin. He had been searching for an alternative treatment, Dr Varipatis said.
33. Dr Varipatis said that his aim was to improve Patient A's health and condition. He told the Committee that he regretted what had occurred, and that he was now better informed about renal disease, although he did not treat such patients because of the Conditions on his practice.
34. We also considered the evidence of the doctors' whose reports were before us. Professor Roy was not called to give oral evidence. However we noted he opined in his report that Dr Varipatis was not able to communicate the risks of high doses of Vitamin C to Patient A because, notwithstanding the information was readily available in scientific journals and MIMS Australia, he had not informed himself regarding those risks.
35. Dr Sydney-Smith opined that as a cautionary guiding principle he would advise intravenous ascorbate therapy be best avoided in patients with renal disease, and other conditions which he listed in his report.
36. Dr Bunker told us that Dr Varipatis had a duty to be aware of the risks of the therapy he was administering, and that although Vitamin C is considered to be relatively safe, caution regarding its use in patients with renal disease was widely published. Further, if complementary medicine formed as important a

part of Dr Varipatis' practice as it appeared, then it was incumbent on him to inform himself adequately. Dr Bunker was critical of Dr Varipatis on that basis, and agreed in his oral evidence that if Dr Varipatis was not aware of potential problems of a therapy he was administering, then this indicated a significant departure from the standards expected in the practice of medicine.

37. The Committee notes the admission by Dr Varipatis that he did not inform himself as he should have regarding the risks of administering high doses of IV Vitamin C to a patient with renal disease, and finds that as a result he caused harm to Patient A. In that regard we noted the letter of the renal specialist Dr B to Patient A's treating doctor, dated 19 January 2006, in which he wrote: "*I am doubtful [Patient A's] kidneys will recover to the point that he will be able to come off dialysis. ... I have also explained to [Patient A] that I believe that a significant component of his renal function deterioration was due to his mega dose vitamin therapy.*"
38. We have noted with concern that Dr Varipatis did not attempt to contact Patient A's renal specialist or any colleagues before administering the Vitamin C therapy to Patient A, and that he did not consult the appropriate widely available literature on the risks of that therapy in a patient with renal disease. We also relied on the opinion of Dr B as expressed in the paragraph above, where we note he indicated that a significant component of Patient A's renal function deterioration was due to the mega dose vitamin therapy.
39. Accordingly we find Particular 2.a). proven, and are satisfied to the requisite standard that Dr Varipatis is guilty of unsatisfactory professional conduct within the meaning of section 36 of the Act in relation to Particular 2.a)., in that he 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 a practitioner of an equivalent level of training or experience (as described above).

2.b) *Because the practitioner was not adequately informed, he failed to provide Patient A with adequate information concerning the potential adverse effects of using high doses of IV VC therapy in patients with renal disease.*

40. Dr Varipatis admitted Particular 2.b).
41. We noted that Dr Bunker emphasised that particularly with what he characterised as "*off label*" medications, it was incumbent on the practitioner to be well informed, and to be able to explain the ramifications of the treatment to the patient. Dr Bunker was critical of Dr Varipatis' lack of knowledge in relation to administering IV Vitamin C to a patient with renal disease such as Patient A. Further, as complementary medicine formed an important part of Dr Varipatis' practice, it was incumbent on him to inform himself adequately in order to inform the patient. Dr Bunker was critical of Dr Varipatis on that basis, and opined that this lack of knowledge, and failure to communicate risks associated with IV Vitamin C therapy indicated a significant departure from the standards expected in the practice of medicine.

42. The Committee shares Dr Bunker's criticism, and finds that in relation to the administration of high doses of Vitamin C to Patient A, as demonstrated in Particular 1, Dr Varipatis has breached the Board's Policy on Complementary Health Care as discussed by Professor Roy. He did not inform himself as he should have regarding the risks of administering high doses of Vitamin C to a patient with renal disease and therefore could not inform Patient A adequately of the risk of the therapy. Accordingly we find Particular 2.b). proven, and find that Dr Varipatis is guilty of unsatisfactory professional conduct within the meaning of section 36 of the Act in relation to Particular 2.b), in that he 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 a practitioner of an equivalent level of training or experience (as noted above).

2.c) The practitioner failed to note family history made available by Patient A in the YourHealth Patient Questionnaire which indicated that Patient A could have been at special risk from the proposed IV VC treatment.

43. Dr Varipatis admitted Particular 2.c). We noted that in the reports before us, it was Professor Roy who commented specifically on the fact Dr Varipatis did not take sufficient account of the family history made available by Patient A in the YourHealth Patient Questionnaire, which indicated that he could have been at special risk from the proposed IV VC treatment. This arose out of the notation that Patient A's brother suffered nephrotic syndrome and kidney stones, and his sister, nephritis. We are satisfied from the evidence that this significant history of renal disease was not acted upon by Dr Varipatis before he prescribed and administered IV Vitamin C.

44. The Committee finds that Dr Varipatis administered high doses of IV Vitamin C to Patient A without sufficient attention to his family history of kidney disease, knowledge of, and consideration of the risks, as well as explanation to the Patient. Accordingly Dr Varipatis has breached the Board's Policy on Complementary Health Care as discussed by Professor Roy. He did not inform himself as he should have regarding the risks of administering high doses of Vitamin C to a patient with renal disease, and caused harm to Patient A (per Dr B).

45. Accordingly the Committee finds Particular 2.c) proven to the requisite standard, and finds that Dr Varipatis is guilty of unsatisfactory professional conduct within the meaning of section 36 of the Act in relation to Particular 2.c), in that he 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 a practitioner of an equivalent level of training or experience (as detailed above).

2.d) As a result of failing to note family history, the practitioner did not consider the need to undertake screening tests to ensure that

Patient A did not have an underlying defect of oxalic acid metabolism.

46. Dr Varipatis admitted Particular 2.d).
47. We were mindful Professor Roy noted Dr Varipatis had knowledge of Patient A's family history of renal disease from the YourHealth Patient Questionnaire, and that he was therefore critical of him for not having carried out the screening referred to in Particular 2.d).
48. We noted that Dr Bunker commented with approval on notations Dr Varipatis had made in regard to Patient A, including a recommendation that he reconsider proceeding with a renal biopsy in an effort to obtain more information on the cause of the nephrotic syndrome. The Committee was however satisfied to the requisite standard that Dr Varipatis did not carry out the appropriate investigations, and proceeded with IV Vitamin C therapy notwithstanding Patient A's family history of renal disease, and the fact his kidneys were not functioning normally. We were satisfied that that was a breach of the Board's Policy on Complementary Health Care, and that the allegations in Particular 2.d) are proven. We noted also Dr B's findings of damage to Patient A's kidneys as a result of the Vitamin C therapy.
49. Accordingly the Committee finds that in regard to Particular 2.d), Dr Varipatis is guilty of unsatisfactory professional conduct within the meaning of section 36 of the Act in that he has demonstrated that the knowledge, skill or judgment possessed, or care exercised by him in the practice of medicine was significantly below the standard reasonably expected of a practitioner of an equivalent level of training or experience.

2.e) The practitioner failed to communicate with Dr B about his administration of IVC to Patient A.

50. Dr Varipatis admitted Particular 2.e)
51. We noted that both Dr Bunker and Professor Roy agreed that Dr Varipatis should have communicated with Dr B, the treating renal physician, with regard to Patient A before administering any IV Vitamin C therapy. Dr Bunker was critical of Dr Varipatis for not doing so, and was ultimately satisfied that such failure to communicate was significantly below the standard expected of a practitioner in Dr Varipatis' situation.
52. The Committee concurs, and adds its opinion that not only was it important that Dr Varipatis communicate with Dr B about a patient in any general practitioner/specialist relationship, but more so in the case of administration of IV Vitamin C therapy because it is "*off label*" and unconventional, (also per Dr Bunker). Further, this patient developed signs and symptoms which were documented, and should have been communicated to the specialist, and acted upon. We are mindful that communication between general practitioners and specialists is presently more a "two way street," and was perhaps less so at the relevant time in 2004 – 2006, but that meant there was a further

stronger onus on Dr Varipatis to communicate with Dr B about Patient A. We were not persuaded by Dr Varipatis' original argument that because conventional practitioners are often dismissive of alternative treatments, he relied on his patients to inform their specialists of what action had had taken, or what he had prescribed. We are however content to note Dr Varipatis' assurances that he no longer so relies.

53. The Committee having considered the evidence regarding the failure of Dr Varipatis to communicate with Dr B before administering any Vitamin C therapy, finds to the requisite standard that Particular 2.e) is proven. We find Dr Varipatis is guilty of unsatisfactory professional conduct within the meaning of section 36 of the Act in relation to Particular 2.e), in that he 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 a practitioner of an equivalent level of training or experience (as stated above).

2.f) *The practitioner failed to adequately monitor Patient A's clinical progress following the administration of IV VC.*

2.g) *The practitioner failed to consider the significance of Patient A's elevated blood pressure readings between December 2004 and March 2005, and unusual weight gain during the final round of treatment in October 2005, and take appropriate action including contacting Dr B.*

54. The Committee has chosen to consider Particulars 2.f) and 2.g) together and noted that Dr Varipatis has admitted both.
55. We noted Dr Varipatis' evidence that biochemistry results of tests on Patient A which should have been provided to him were not, and that he neglected to follow them up. We were mindful of Dr Varipatis' excuse, which was that due to IT problems, the results of the investigations were not available to him as they were intended to be. He thus neither acted upon them, nor followed up with further testing, nor discussed any results with Dr B.
56. Professor Roy indicated that the rise in serum Creatinine, and therefore the failing kidney function which the results indicated between early 2005 and October 2005 should have alerted Dr Varipatis to investigate the cause.
57. We noted further that it is not in dispute that Patient A's blood pressure (fluctuations in December 2004 to March 2005), and weight fluctuations, in particular the weight gain within the month of October 2005 should have raised more concern for Dr Varipatis than it did. We are satisfied from the expert evidence that Dr Varipatis should have considered this an indication for further investigations such as checks of renal function, and communication with the specialist. None of that took place, and Dr Varipatis' evidence was that all the data was collected, that he asked Patient A about his weight gain, and was satisfied with the reply which was that he felt well and had good urine output. Dr Varipatis admitted to the Committee that he had come up against

the limits of his knowledge, and in relation to communication with the specialist, we noted that there had been a reluctance to communicate which, in the circumstances, we find unsatisfactory.

58. Dr Bunker's evidence was that Dr Varipatis' failure to act on the signs and symptoms noted above was a significant deficiency in Dr Varipatis' performance and a significant departure from proper standards. We agreed with that.
59. The Committee thus finds Particulars 2.f) and 2.g) proven. We find that Dr Varipatis is guilty of unsatisfactory professional conduct within the meaning of section 36 of the Act in relation to those Particulars, in that he has demonstrated that the knowledge, skill or judgment possessed, or care exercised by him in the practice of medicine was significantly below the standard reasonably expected of a practitioner of an equivalent level of training or experience (as noted above).

EXHIBITS

60. The Committee has considered documents provided by the parties prior to the hearing being documents 1 to 19 from the HCCC, and the patient records of Patient A tendered by Dr Varipatis.

FINDINGS

61. The Committee must be reasonably satisfied of any findings that it makes. In forming its views on these matters the Committee has taken into account the seriousness of the matters, the inherent likelihood of an occurrence of a given description and the gravity of the consequence flowing from a particular finding. We have considered the written and oral evidence, and the oral and written submissions made by the parties.
62. As noted above Dr Varipatis has admitted all the Particulars of the Complaint, although he sought to justify certain points.
63. We are comfortably satisfied to the requisite standard, that Dr Varipatis has breached section 36 of the Act in relation to all the Particulars of the Complaint, in that he has demonstrated that the knowledge, skill or judgment possessed, or care exercised by him in the practice of medicine in relation to Patient A was significantly below the standard reasonably expected of a practitioner of an equivalent level of training or experience, being a vocationally registered medical practitioner who has undergone training in complementary medicine and integrative medicine since at least 1984 and on a continuing basis since, and practised in that area since 1987.

ORDERS

64. Pursuant to section 61(1)(a) of the *Medical Practice Act 1992* the Committee orders that Dr Varipatis be reprimanded.

PUBLICATION OF DECISION

65. Pursuant to section 180(1) of the Act the Committee provides a copy of this written Statement of Decision to the Dr Varipatis, the Health Care Complaints Commission and the Board.
66. Pursuant to section 180(3) of the Act the Committee provides a copy of this written statement of decision to Dr B, Patient A.
67. Pursuant to Schedule 2, clause 6 of the Act, the Chairperson directs that the name, address and identity of Dr B and Patient A is not to be disclosed.
68. A de-identified copy of the Statement of Decision is to be provided to the Australasian College of Nutritional Medicine and the Royal College of General Practitioners for the purposes of education
69. Dr Varipatis' advisors made submissions that his name not be disclosed, and that the Statement of Decision not be published. This discretion is only exercised in particular circumstances. We are not so persuaded in this case. We have considered the statute, and exercise our discretion under the circumstances to order publication in full, with the exception of the names of Dr B and Patient A.
70. This direction does not operate to exclude any provision of the Act, and does not preclude the Medical Board from undertaking its statutory functions.
71. 'Publication' may include communicating either in writing or verbally to any person.

APPEAL

72. 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 Geri Ettinger
Chairperson

18/11/09
Date