

MEDICAL TRIBUNAL OF
NEW SOUTH WALES

JUDGE SMYTH

Tuesday 19 March 1991

RE KATHERINE LOUISE CARSELDINE AND THE MEDICAL PRACTITIONERS ACT
JUDGMENT

HIS HONOUR: In this matter a complaint has been made by the delegate of the Director-General of the Department of Health that the respondent has been guilty of professional misconduct within the meaning of section 28(1)(d) of the Medical Practitioners' Act 1938, as amended. The particulars of complaint are fifteen in number.

1. You prescribed drugs of addiction likely to produce dependence on the dates, to the persons and in the quantities shown on the Schedules annexed hereto and marked with the letters, A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, AB, AF, AK, AL, AM, AN, AP, AS, AU, AW, BA, AAT, AAV, ABC, ABD, ABE, ABG, ABL without exercising responsible judgment as to whether it was appropriate to issue such prescriptions.
2. You did, contrary to the requirements of Section 28(b) of the Poisons Act, 1966, on the dates and in the quantities shown in Schedules D, L, O, S, T, U, W, Z, AB, AK, AP, AU, BA, AAT, AAV, ABC, ABD, ABE, ABG, annexed hereto, prescribe drugs of addiction for persons referred to in the Schedules without obtaining an authority in respect of those persons from the New South Wales Department of Health under Section 29 of the

Poisons Act, 1966 when, in your opinion, those, persons were at the time, addicts within the meaning of Section 27 of the Poisons Act, 1966, or, by your exercising responsible judgment you should have formed the opinion that those persons were addicts.

3. You did, contrary to the requirements of Section 28(a) of the Poisons Act, 1966, prescribe on the dates and in the quantities shown in Schedules A, C E, H, I, J, K, L, M, N, O, P, Q, U, W, X, Z annexed hereto the drugs of addiction referred to in those Schedules, for the persons referred to in those Schedules, continuously for periods exceeding two (2) months without having applied on or having been given an authority issued under Section 3 of the Poisons Act, 1966.
4. You continued to prescribe drugs of addiction to the patients referred to in Schedules A and B annexed hereto, when the authorities issued in accordance with Section 29 of the Poisons Act, 1966, to prescribe the drugs of addiction for those patients had expired.
5. You failed to maintain a register of drugs of addiction in accordance with Regulation 58 of the Poisons Act, 1966.
6. You failed to notify the Director-General of the New South Wales Department of Health, in writing, of the loss of your drug registers as required by Regulation 58(7) of the Poisons Act, 1966.
7. You supplied drugs of addiction in containers which were not labelled in accordance with Regulation 20 under the Poisons Act 1966.

8.

9. You did not take due care in properly identifying patients' address on prescriptions for drugs of addiction with respect to the patients referred to in Schedules AF and AW annexed hereto as required by Regulation 62(2) under the Poisons Act, 1966.
10. You have, on numerous occasions, written prescriptions for drugs of addiction in which you have not included adequate directions for use, contrary to the requirements of Regulation 62(2)(v) under the Poisons Act, 1966.
11. You took possession or control of drugs of addiction, those drugs either being personally collected by you, or collected on your behalf, from various pharmacies, on behalf of numerous patients and have failed to satisfactorily account for their disposition specifically: (a) that proportion of an amount in excess of 1,000 ampoules of pethidine 100mg which you have been identified as having prescribed between 14/8/88 and 7/12/89 which came into your possession or control as set out above; and (b) that proportion of an amount in excess of 20,000 physeptone 10mg which you have been identified as having prescribed between 14/8/88 and 7/12/89 which came into your possession or control as set out above.
11. You failed to satisfactorily explain the disposition of 320 physeptone 10mg tablets which came into your possession between 8/10/89 and 12/10/89.
12. You failed to satisfactorily explain how you came to prescribe drugs of addiction namely physeptone and pethidine on 2/3/89, 7/4/89 and 18/4/89 for the patient referred to in Schedule D annexed hereto when that patient was administered

physeptone daily during the period 2/3/89 to 21/4/89 on a methadone programme in another State.

13. You associated with a person on a professional and non-professional basis who was known to you to be convicted of drug offences and allowed that person to collect drugs of addiction, prescribed by you, on her behalf.
14. You failed to keep premises located at 2/145 Womerah Avenue, Darlinghurst which you used to consult patients and administer medication in a clean and hygienic state appropriate for that purpose.
15. On 12/9/89 you were found to have in your possession a prohibited drug, cannabis leaf, contrary to the provisions of Section 10 of the Drugs Misuse and Trafficking Act 1985.

The complaint was made on 21 January 1991. I, as the judicial member of the Tribunal, had three direction hearings prior to this hearing. At these directional hearings arrangements were made for the early return of subpoenas, production of those documents and access to be granted to the parties. The mechanics were the Complaints Department took possession of those documents, had them photostated and provided copies to the respondent.

When the matter commenced yesterday morning Mr Gormly on behalf of the respondent, in her presence, conceded that the particulars alleged were accurate and further conceded that those particulars constituted professional misconduct. Evidence was led on behalf of the complainant up until lunch time yesterday, and Mr Gormly on behalf of the respondent again repeated his admissions, and repeated it was accepted by the respondent that her conduct was such that her name had to be removed from the registrar. I think clearly that is so.

13.

The conduct disclosed in the particulars and supporting documents is obviously that of a doctor who has abrogated all is obviously that of a doctor who has abrogated all responsibility in relation to the prescribing of Schedule drugs.

The fact is over the relevant period the respondent prescribed more than three per cent of the total methadone used in New South Wales. In addition, and more seriously, it is clear when one looks at particular 10, and particular 11 and 12, that significant quantities of those scheduled drugs cannot be properly accounted for. Of course, this raises suspicion that those drugs were used for an improper purpose. Either they were disposed of for the purpose of sale and profit or they were utilised by the respondent and/or her associates, but I emphasise that is only suspicion. There is no hard evidence that either of such things happened. It is mentioned to show the seriousness with which the Tribunal regards the conduct of the respondent. It is also of concern that she obtained physeptone for a named patient referred to in particular 12, having written the script when that patient was out of the state on a methadone programme in Victoria. Of itself that conduct is gravely suspicious.

Another matter of some significance is that she chose to associate on a patient and non-patient basis with a person who in fact had served a gaol sentence for conspiracy to import heroin and other serious crimes. This Tribunal draws the inference that person, on the probabilities, was addicted to drugs. It may be therein lies the explanation of her bizarre conduct. "Bizarre" is the only word

"Bizarre" is the only appropriate word to explain it.

She would be aware, as would any other doctor, Schedule 8 prescriptions are carefully scrutinised by the Department and are ultimately collated.

She had had drawn to her attention on three prior occasions -that her conduct in relation to the prescribing of such drugs left much to be desired and yet she continued in a most haphazard way. There can just be no excuse for an intelligent person to continue such conduct.

It is quite obvious that her name has to be removed from the Registrar of Medical Practitioners and this Tribunal so orders, such order to take effect from today's date. The Tribunal is empowered under section 32 s (5)(a) to specify a period which the respondent is prohibited from applying for re-registration. The Tribunal feels this is an appropriate case in which to make such an order. It should be emphasised at this stage the period that the Tribunal proposes to specify is not a value judgment involving the infliction of any penalty.

This Tribunal is charged with the protection of the public interest and it is clear that the respondent's conduct is such that it is not in the public interest that she be permitted to continue to practise. Of course, people can change. Clearly, she has a lot of money invested in her career as a medical practitioner and if she can rehabilitate herself, if she can satisfy some Tribunal in future that she is worthy to be trusted as a registered medical practitioner, then she should be given that opportunity, but it seems to this Tribunal, considering the seriousness of the breaches of her professional duties, that it would be impossible for her to establish that she had rehabilitated herself under a period of five years. The Tribunal prohibits, pursuant to this sub section, her making an application for registration before the expiration of five years from today's date

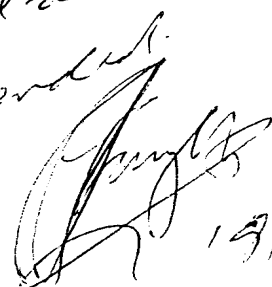
It has been made clear to the respondent by words from me when the admissions were made that it would be incumbent upon her, if she ever makes an application for registration, to satisfy that Tribunal of her rehabilitation. It seems to me that that Tribunal would require a satisfactory and compelling answer to her present conduct. The Tribunal does not think this would be an easy onus to discharge. It makes no further comment. We would inform the respondent that if she ultimately hopes to be re-admitted to practice in medicine that it is incumbent upon her to keep up to date with current medical practice. It seems to this Tribunal it is highly unlikely she would ever be trusted with the dispensing of Schedule 8 drugs or whatever they might be under the then current legislation.

Although this Tribunal has the power to award costs it considers that the way in which this matter has been conducted it is appropriate for each party to bear its own costs.

I direct that the complaints unit retains copies of the records and the evidence which support the allegation so that they will be available for any Tribunal which may be required to deal with any application in the future.

I direct that the names or any material which may identify any of the patients concerned in this application be suppressed.

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*Certified
correct as
amended.*
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