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Media release

Pharmacy Council's actions focused on ensuring high quality practice

The Pharmacy Council says its decision to review a Health Practitioners Disciplinary Tribunal finding in the High Court was about seeking clarity around what constitutes safe pharmacist practice.

The Health Practitioners Disciplinary Tribunal's hearing in December 2019 decided not to take disciplinary action against four pharmacists who had repeatedly dispensed fraudulent and unsigned prescriptions, which were all copies of a single prescription.

The Tribunal found that the four pharmacists were negligent and had brought the pharmacy profession into disrepute. However, the Tribunal decided their conduct did not warrant disciplinary sanctions for protecting public safety and maintaining professional standards.

Chief Executive Michael Pead says the Pharmacy Council was concerned by the implication of this decision in terms of assuring public safety and maintaining pharmacists' competence and decided to review the decision at the High Court.

An independent Professional Conduct Committee, set up by the Pharmacy Council, investigated the actions of 37 pharmacists after the fraud was discovered in 2017. Each pharmacist had dispensed a fraudulent copy at least once.

The Committee referred four pharmacists to the Tribunal to face charges of professional misconduct. Some of the remaining 33 pharmacists demonstrated to the Committee that they had learnt the lessons from these incidences. Others were directed to undergo further professional development.

"The Pharmacy Council's purpose is to protect the health and safety of the public through ensuring pharmacists practise safely and effectively".

Michael Pead says the Tribunal's finding that the conduct of the four pharmacists amounted to negligence but was not sufficiently serious to warrant disciplinary sanction was significant.

The Council and its Professional Conduct Committee carried out a comprehensive review of the Tribunal's decision and decided an appeal was warranted. The appeal, heard on September 8, 2020, centred on legal questions raised about the Tribunal erring in its process in reaching the decision the pharmacists' conduct was not significant enough to warrant disciplinary sanction and a finding of professional misconduct.

"A finding of misconduct is separate to the penalty decision, which takes account of mitigating circumstances relevant to the misconduct," Michael Pead says

The Pharmacy Council argued there must be "no room for doubt" amongst the profession that repeated errors are unacceptable and raised its concerns that the Tribunal's decision left uncertainty as to the standards expected of pharmacists.

"It is patients who are impacted if the profession does not clearly understand the high standards that are required to ensure health and safety."

The High Court released its decision in April 2021, upholding the original decision of the Tribunal. Council remains concerned that the ambiguity for this particular set of circumstances has not been resolved. However, the likelihood of getting this clarity through further court action was considered marginal. The Pharmacy Council decided not to pursue further legal action relating to its appeal.

Michael Pead welcomes the comments from the Tribunal highlighting that the Pharmacy Council has properly investigated these cases, and that the lapses in basic checks when processing prescriptions are of concern to the profession and wider public interest.

“It is a priority for the Pharmacy Council to work with the profession to ensure high quality practice is maintained including exploring what initiatives are required to reduce the likelihood of a similar case to this one”.

“More specifically in the next newsletter to the profession we will address the lessons learnt from this case and ensure there is no ambiguity on the standards expected of pharmacists, given similar circumstances,” Michael Pead says.

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