

Mrs Asma Shousha, Phar20/493P

Charge

On 24 May 2021, the Health Practitioners Disciplinary Tribunal (the Tribunal) heard a charge of professional misconduct laid by a Professional Conduct Committee (PCC) appointed by the Pharmacy Council of New Zealand against Ms Asma Farag Shousha, a registered pharmacist of Auckland (the pharmacist).

The charge is summarised below.

The charge alleged that the pharmacist:

1. On 32 occasions, between on or around 13 March 2018 and 15 May 2018, and following a condition imposed on 19 January 2018 by the Ministry of Health on the Pharmacy's Licence to Operate preventing dispensing or supply of any medicines requiring storage between 2-8 degrees Celsius (the Ministry's condition), the pharmacist contrary to the condition:
 - a. dispensed, and/or allowed to be dispensed, medicines that the pharmacist and the pharmacy were prevented from dispensing, and/or
 - b. amended and/or falsified, and/or allowed or failed to prevent the amendment and/or falsification of the pharmacy's dispensing records with a dispensing date prior to the imposition of the condition.
2. On five occasions between 14 March 2018 and 30 April 2018, the pharmacist and/or the Pharmacy dispensed and/or made claims for medicines requiring storage between 2-8 degrees Celsius.
3. On 33 occasions, between 30 January 2018 and 2 July 2018, the pharmacist and/or the Pharmacy ordered and/or supplied medicines requiring storage between 2-8 degrees Celsius.
4. Failed to have an adequate system to accurately monitor and record the refrigeration temperatures, in that:
 - a. temperatures were not recorded daily;
 - b. temperature records for July and August 2017 were not contemporaneously completed and/or did not identify who had completed them;
 - c. temperature records for September 2017 were confusing as to whether they related to September 2012 or 2017;
 - d. temperature records for November 2017 were separately located in a retail drawer;
 - e. the pharmacist was unable and/or declined to provide the temperature records for December 2017;
 - f. failed to ensure staff were adequately trained in maintaining and/or recording the temperatures;
 - g. In or around January 2018, failed to complete an appropriate accuracy test or a validation for
5. Around July 2018, the pharmacist failed to appropriately store medicines requiring refrigeration; and/or
6. On five occasions between June 2017 and August 2017, the pharmacist provided vaccination services she was not authorised to do; and/or

7. Around 2016 and/or 2017, the pharmacist did not advise the Pharmacy Council of her physical and/or mental health conditions; and/or
8. Around March 2017, the pharmacist falsely or misleadingly completed her application for renewal of her Annual Practising Certificate when she knew or ought to have known she was suffering from a health condition that may affect her practise as a pharmacist.

The pharmacist admitted the charge and the hearing proceeded by way of an Agreed Summary of Facts.

Background

The pharmacist is the sole director and shareholder of Nohancy Limited which held a licence to operate a pharmacy and traded as the Devonport 7 Day Pharmacy in Devonport, Auckland. On 17 January 2018, a Medicines Control auditor visited the pharmacy to conduct an inspection. Concerns were raised about the monitoring of the refrigeration temperatures to ensure they always remained within range of 2 to 8 degrees Celsius.

As a result, the Licensing Authority wrote to the pharmacist on 19 January 2018 to advise that an additional operating condition was imposed on the pharmacy's license, prohibiting the pharmacy from dispensing medicines required to be stored. A follow-up audit was undertaken on 24 January 2018. This audit identified a number of issues including the pharmacy's inability to ensure the fridge temperatures would be consistently maintained. A further additional operating condition was then imposed prohibiting the dispensing or supply or administering any vaccine or providing vaccination services.

On 9 July 2018, the Manager of the Licensing Authority and Medicines Control undertook a third audit. He identified non-compliance with the conditions and a lack of response to issues identified in the audits together with several other issues.

On 17 July 2018, the Authority suspended the Licence to Operate, effective from 18 July 2018. On 13 December 2018, a decision was made to immediately cancel the Licence to Operate Pharmacy.

Finding

The Tribunal found all particulars and sub-particulars of the charge, established.

- Particulars 1(a), 2 and 3 amounted to malpractice and conduct likely to bring discredit to the profession;
- Particulars 1(a), 1(b), 2 and 3 individually and cumulatively amounted to conduct likely to bring discredit to the profession;
- Particular 4 and all sub particulars together, amounted to negligence;
- Particular 5 amounted to negligence to a significant degree and conduct likely to bring discredit to the profession;
- Particular 6 amounted to negligence and conduct likely to bring discredit to the profession;
- Particular 7 amounted to malpractice, negligence and conduct likely to bring discredit to the profession;
- Particular 8 not sufficiently on its own but when looked at together with Particular 9 amounted to negligence.
- Particular 9 on its own amounted to malpractice and conduct likely to bring discredit to the profession.

Penalty

The Tribunal ordered:

- registration be cancelled;
- censure;
- conditions on practice for a period of up to two years following any return to practice;
- 35% of the costs amounting to \$37,363.

The Tribunal directed publication of the decision and a summary.

The full decision of the Tribunal can be found here: [Phar20/493P](#)

Appeal

The practitioner appealed to the High Court against the penalty decision of the Tribunal. The High Court allowed the appeal, dismissing the cancellation of registration. The Court imposed a suspension of 9 months, expiring on 14 July 2022, amended the conditions imposed and reduced the costs to 30% amounting to \$32,025. ([2022] NZHC 1457).