

Mr El-Fadil Kardaman, Phar21/538P

Charge

A panel of the Health Practitioners Disciplinary Tribunal (the Tribunal) convened via audio-visual link on 11 August 2022 to hear disciplinary charges laid by a Professional Conduct Committee (PCC) of the Pharmacy Council of New Zealand (the Council) against the practitioner, Mr El-Fadil Kardaman registered pharmacist of Auckland (the Pharmacist).

The charge is summarised below and alleged that the Pharmacist:

1. Failed to comply with and/or breached conditions imposed by the Tribunal in February 2019 following the hearing of a charge of professional misconduct in November 2018. The conduct alleged is grounds for discipline under s 100(1)(f) and/or s 100(1)(g) of the Act.
2. Inappropriately and dishonestly communicated with his supervisor and the Council amounting to professional misconduct.

The alleged conduct amounts to professional misconduct in that, either separately or cumulatively, it amounts to malpractice or negligence in relation to the Practitioner's scope of practice pursuant to section 100(1)(a) of the Act and/or it has brought or is likely to bring discredit to the profession, pursuant to section 100(1)(b) of the Act.

The full charge can be found at the end of the decision published on the HPDT website.

Background

The events giving rise to Particular 1 relate to various conditions imposed on the Practitioner subsequent to previous disciplinary hearings. These hearings arose out of the Pharmacist's ongoing failure to comply with recertification requirements and completion of a competence programme required of him by the Council. The Tribunal imposed conditions on the Practitioner's scope of practice. These included:

- For a period of two years, the Pharmacist must undertake professional supervision by an experienced external professional supervisor. The supervisor was to provide regular reports to the Council, with a particular focus on professionalism and recertification requirements; and
- Within nine months of the Tribunal's decision, the Pharmacist was to undertake a suitable course in ethics as determined by the Pharmacy Council.

There were several difficulties faced in finding the Pharmacist an appropriate supervisor and a suitable ethics course. Eventually, a suitable course was found at the University of Otago. There was some delay in communication regarding enrolment. An agreed supervisor was found but the role took some time to take effect due to the Pharmacist's lack of communication.

The Pharmacist failed to make payment for the professional supervision and eventually ceased engagement with the agreed supervisor.

The Pharmacist was formally warned about the consequences of the failure to comply with the conditions and required him to comply. He did not respond. The PCC investigation revealed that the Pharmacist had been engaged in a preliminary enrolment process with the University of Otago, but had not been formally enrolled. He attended one class.

The Pharmacist's practising certificate was eventually suspended in March 2021 after various failed attempts to make contact with him. He also failed to engage with or respond to the allegations made by the PCC investigation. These repeated failures to comply with the conditions of his practising certificate gave rise to Particular 1.

Particular 2 relates to the Pharmacist dishonestly advising his supervisor that he was enrolled and participating in an ethics course. In addition, his repeated failure to respond to the communications of the supervisor and the Council contributed to Particular 2.

Finding

The Tribunal found Particular 1 established. The Pharmacist failed to pay the costs of the Tribunal, he complied with the supervision order for 7 ½ months of the two years ordered, and he failed to observe the training condition and enrol/undertake the ethics course prescribed by the Council.

The Tribunal also found that the Pharmacist's initial patchy communication, dishonesty, and then eventual complete failure to communicate did amount to professional misconduct. It was considered that the failure to comply with the initial order was the real wrongdoing in the matter, but the matters relating to Particular 2 amount to negligence and conduct likely to bring discredit to the profession and cumulatively are sufficiently serious to warrant a disciplinary sanction.

Penalty

The Tribunal ordered:

- Cancellation of registration.
- The Pharmacist shall not apply for reregistration for a period of 12 months from the date of the decision.
- Censure.
- Payment of costs of \$29,075.34, being 50% of the PCC and Tribunal costs.

The Tribunal directed publication of this decision and a summary.

The full decision can be found on the Tribunal website: <https://www.hpdt.org.nz/Phar21/538P>