

Mr Shane Chafin, Phar23/586P

The charge

A panel of the Health Practitioners Disciplinary Tribunal (the Tribunal) convened 5 to 7 December 2023 in Whangarei to hear a charge laid by a Professional Conduct Committee (PCC) appointed by the Pharmacy Council of New Zealand (the Council) against Mr Shane Chafin (the Pharmacist).

The charge is summarised below and alleges that the pharmacist:

Particulars 1 & 2. In videos and/or communication about Covid-19, made various statements questioning the accuracy of Covid-19 information provided by the Government and health officials, using negative or emotive language, minimising the potential impact of Covid-19 when he knew or ought to have known that these had the potential to:

- Undermine the public health Covid response;
- Place the health and wellbeing of individuals at risk or endanger public safety by promoting distrust of the public health response;
- Discourage the public from receiving the Covid-19 vaccine or create distrust or fear about the vaccine.

Particular 3. By making the various comments and/or statements he failed and/or refused to have regard to his professional responsibilities.

Particular 4. Disclosed confidential information.

Particulars 5 & 6. Ignored requests of the Pharmacy Council.

Particular 7. By acting as he did in particulars 4 – 6, failed to have regard to his professional responsibility.

Particulars 8. Made inappropriate and/or unprofessional comments about the Pharmacy Council, colleagues, employers or work environments.

Particular 9. By acting as he did in particular 8, failed to have regard to his professional responsibilities.

Particular 10. Made a false declaration to the Pharmacy Council.

The charge laid by the PCC is set out in full in Appendix A of this decision. Particulars 1, 2, 4 to 6, 8 and 10 allege professional misconduct. Particulars 3, 7 and 9 allege that in acting in this manner, the pharmacist failed to have regard to his professional responsibilities.

The Tribunal viewed the assessment of whether a health practitioner had regard to or was acting consistently with their professional duties should be considered when determining professional misconduct, rather than being a particular of a charge. The Tribunal considered the seven particulars alleging conduct amounting to professional misconduct comprise the charge to be determined by the Tribunal. While the remaining particulars were technically established for the most part, the Tribunal saw them as a lens to assess the actual conduct.

Background

The pharmacist graduated from the University of Cincinnati, USA in 2001. He was registered in New Zealand in 2013 and from 2016 lived and worked in Northland.

Between September 2021 and January 2022, the pharmacist appeared in several online videos and posts in which he discussed the New Zealand government's response to Covid-19. On 2 November 2021 he attended a press conference in Northland during which he

made comments to the then Prime Minister Jacinda Adern about the Covid-19 vaccine. This was reported on by national news media.

Between 28 October and 10 November 2021, the Council received five complaints about the pharmacist's online presence.

Having been notified of the complaints, the practitioner posted details of one of the complainants including her name, workplace and telephone number. He also indicated he would disclose information about the other complainants.

He was requested by the Council to delete the information and not make any further disclosures but he did not do so. The Council wrote to him again reiterating the request. The pharmacist ignored the request and posted the letter of one of the other complainants on Telegram.

On 28 January 2022, the pharmacist made several negative comments about the Council in a podcast.

On 22 June 2022 the pharmacist applied to the Council to be removed from the Register. As part of this application, he declared that he was not aware of any criminal or disciplinary investigations or actions pending against him.

Finding

The Tribunal found particulars 1, 2, 4 to 6, 8 and 10, established and amounted to professional misconduct warranting disciplinary sanction.

Particulars 1 and 2 were a significant breach of ethical standards and had the potential for individual and public harm.

Particular 4 was considered malpractice and negligence and likely to bring the profession into disrepute. This was a significant failure of the pharmacist to meet his ethical obligations.

Particulars 5 and 6 when considered with particular 4 deserved disciplinary sanction on a cumulative basis.

Particular 8 was considered malpractice and negligence. It is open for practitioners to engage with their regulatory body. However, it is expected that they do so in a professional and responsible manner. The inappropriate conduct in this particular is amplified within the context of a public health response.

Particular 10 was considered malpractice and negligence on a cumulative basis. The pharmacist did make a false declaration but his intention was not to mislead the Council but to have his name removed.

Penalty

The Tribunal ordered:

Cancellation with a bar on reapplying for registration for a period of 3 years.

Censure

50% of the total costs. \$34,067.14 to the PCC and \$21,297.55 to the Tribunal.

The Tribunal directed publication of the decision and a summary. The link to the decision is on the Tribunal's website hpd.t.org.nz.