

Charge

A panel of the Health Practitioners Disciplinary Tribunal (the Tribunal) convened 12 and 13 June 2023 in Auckland to hear a charge laid by a Professional Conduct Committee (PCC) appointed by the Pharmacy Council of New Zealand (the Council) against Ms Nee Nee Ong (the Pharmacist).

The charge summarised below and alleges that:

1. The Pharmacist acted inappropriately during an audit which revealed that she failed to ensure prescription medicines were supplied in accordance with legal and professional obligations, for example supplying controlled medicines without the requisite documentation, failing to securely store and monitor controlled medicines and failing to instate an adequate reporting system for dispensing errors.
2. The Pharmacist practised in an unsafe manner by dispensing prescriptions early, failing to perform the requisite clinical consultations, stocking excessive quantities of controlled medicines without adequate systems in place to monitor them and failing to adequately record dispensing errors.
3. The Pharmacist allowed the pharmacy to operate without her presence, when she knew that regulations required that the pharmacy could not operate without the immediate supervision and control of a pharmacist.
4. The Pharmacist allowed a pharmacy technician and a trainee pharmacy technician to dispense prescriptions, including controlled medicines, without the requisite direct personal supervision.
5. The Pharmacist further acted inappropriately by purporting to provide supervision to her pharmacy technician and trainee pharmacy technician via video call from another country.
6. The Pharmacist provided misleading information to a Medicines Control Auditor.
7. After a condition was imposed on the Pharmacist's licence to only practise at Pharmacy 72, the Pharmacist obtained work as a locum Pharmacist at Life Pharmacy Whangaparaoa.
8. The Pharmacist breached a condition placed on her licence by practising without the supervision of a Council approved supervisor.

The alleged conduct amounts to professional misconduct in that, either separately or cumulatively, it amounts to malpractice or negligence in relation to the Pharmacist's scope of practice, and/or it has brought or is likely to bring discredit to the profession.

A full copy of the charge is found in the Appendix to the full decision.

Background

The Pharmacist previously had the effective control over Pharmacy 72, and after it closed she subsequently worked as a locum pharmacist at the Whangaparaoa Life Pharmacy. There

are extensive particulars to the failings in the Pharmacist's practice, but they largely arise from an audit undertaken on 21 January 2020 which revealed numerous and pervasive inadequacies in the Pharmacist's practice and operation of Pharmacy 72. The auditors report prompted Medsafe to notify the Council of concerns about the practitioner's competence.

In March of 2021, the Pharmacist became stuck on a cruise ship outside of New Zealand due to the Covid-19 outbreak and her return to work was delayed. She was unable to find a locum to operate the Pharmacy for one day, but the Pharmacy opened regardless with a pharmacy technician and trainee present while the Pharmacist purported to supervise them via video call. There was no registered pharmacist at the pharmacy.

Later that month, the Pharmacist's supervisor wrote a letter of complaint to the Council about the practices she had observed whilst working at Pharmacy 72. Following this letter, the auditor returned to Pharmacy 72, a visit which prompted notification of further concerns to the Council. In June 2020, the Pharmacist's practising certificate was suspended, although this condition was subsequently reduced to one of supervision and to only practise at Pharmacy 72. Around this time the Pharmacist sold the stock and goodwill of Pharmacy 72 to a nearby owner of another Pharmacy. The new owner of Pharmacy 72 also developed several concerns about the way the pharmacy had been operating.

After the sale of Pharmacy 72, the Pharmacist obtained work as a locum Pharmacist at Life Pharmacy Whangaparoa, despite the conditions remaining on her scope of practice to be under supervision. The Pharmacist provided her new employer with an old copy of her practising certificate, which did not note the condition of supervision. Her practising certificate was subsequently suspended.

Finding

The Tribunal found the elements of particular 1 and 2 established, with a few minor exceptions that made no material difference to the assessment of overall penalty. The conduct amounted to professional misconduct, and when considered cumulatively warranted disciplinary sanction. Particulars 3 to 8 were also established and justified an appropriate disciplinary sanction, independent of any other particulars to the charge.

The Tribunal considered this a case of significant liability against the Pharmacist, in relation to both pharmacy operation and deliberate dishonesty. Given the Pharmacist's lack of engagement in the disciplinary process, the Tribunal could not be persuaded that the Pharmacist was capable of rehabilitation. The lack of engagement also meant the Tribunal was unable to identify any mitigating features of the offending. The offending was aggravated by the Pharmacist's lack of insight into the offending, an apparent willingness to prioritise business interests over that of patient safety, and the risk to the public.

Penalty

The Tribunal ordered:

1. Cancellation with a bar on reapplying for registration for a period of 12 months
2. Conditions on re-registration
3. Censure
4. Costs of \$40,000 to the PCC and \$12,500 to the Tribunal

The Tribunal directed publication of the decision and a summary. The link to the decision is [Charge Details \(hpdt.org.nz\)](https://www.hpdt.org.nz/charge-details)