SUPREME COURT OF QUEENSLAND

CITATION:	*Coroneos v Medical Board of Qld* [2003] QCA 269
PARTIES:	**MICHAEL CORONEOS** (registrant/appellant) **v** **MEDICAL BOARD OF QUEENSLAND** (registrant's board/respondent)
FILE NO/S:	Appeal No 8358 of 2002 D5413 of 2001
DIVISION:	Court of Appeal
PROCEEDING:	General Civil Appeal
ORIGINATING COURT:	Health Practitioners Tribunal at Brisbane
DELIVERED ON:	4 July 2003
DELIVERED AT:	Brisbane
HEARING DATE:	18 June 2003
JUDGES:	Davies and Williams JJA and Atkinson J Judgment of the Court
ORDERS:	**1. On the Referral Notice filed 12 November 2001:** **Order that the registration of Michael Coroneos pursuant to the provisions of the *Health Practitioners (Professional Standards) Act* 1999 be suspended for a period of three months as a result of his failure to comply with conditions imposed on his registration by the Medical Assessment Tribunal** **2. On the Notice of Review dated 18 December 2001:** **(i) Order that conditions (i) to (vii) of the conditions imposed by the Medical Assessment Tribunal in its order of 15 August 2000 be deleted;** **(ii) Pursuant to s 345 of the *Health Practitioners (Professional Standards) Act* 1999 vary the conditions imposed by the Medical Assessment Tribunal on the registration of Michael Coroneos by deleting conditions (viii), (ix) and (x) and by imposing in lieu thereof the following conditions on his registration to apply for a period of three years immediately from the resumption of his registration after serving the period of three**

months suspension:

(a) In each calendar year in which these conditions apply, the registrant must meet one third of the triennial CME requirements of the Royal College of Surgeons with a maximum of one overseas meeting per year to count towards those CME requirements and with at least 75% of the requirements counted to be in fields related to neurosurgery;

(b) The registrant must submit a diary of CME activities to the Medical Board every six months in which these conditions apply with the first such report to be submitted on or before 31 January 2004 in respect of the six month period to 31 December 2003. Each diary to be accompanied by the verification requirements of the Royal Australasian College of Surgeons;

(c) The registrant must do all in his power to:

(i) make an application to join the Neurological Society of Australasia; and

(ii) to further any such application; and

(iii) to maintain any such membership granted to him;

(d) The registrant must submit to the Medical Board a report of his efforts to comply with conditions on or before 31 January in each calendar year in which these conditions apply

3. Otherwise order that the appeal be dismissed with costs

CATCHWORDS: PROFESSIONS AND TRADES – MEDICAL AND RELATED PROFESSIONS – MEDICAL PRACTITIONERS – DISCIPLINE, AND REMOVAL FROM AND RESTORATION TO REGISTER – OTHER GROUNDS FOR DISCIPLINE AND REMOVAL – where appellant suspended from practice due to misconduct in a professional respect – where conditions on right to practice imposed on appellant on re-admission – where some of conditions subsequently deleted as no longer necessary – where appellant did not comply with conditions at any time – where appellant suspended for three months by Medical Assessment Tribunal because of failure to comply with conditions – whether Tribunal made errors of law in arriving at the decision that breaches had been proved – whether penalty imposed manifestly excessive

PROFESSIONS AND TRADES – MEDICAL AND RELATED PROFESSIONS – MEDICAL PRACTITIONERS – DISCIPLINE, AND REMOVAL FROM AND RESTORATION TO REGISTER – PROCEDURE, EVIDENCE AND APPEAL – QUEENSLAND – where Tribunal varied conditions and extended time during which they were to apply – whether there was any evidence on which these decisions could be justified

Health Practitioners (Professional Standards) Act 1999 (Qld), s 123, s 124, s 125, s 126, s 337, s 345, s 346, s 347, s 348, s 403

Coroneos v The Medical Board of Queensland & Anor [2001] QCA 268; Appeal Nos 10098 and 11211 of 2000, 20 July 2001, cited
Dinsdale v The Queen (2000) 202 CLR 321, referred to
Medical Board of Queensland v A [2003] QHPT 005, considered
Medical Board of Queensland v Dr H [2001] HPT 002, considered
T v Medical Board of Queensland [2002] QHPT 004, considered

COUNSEL: N M Cooke QC, with S Di Carlo, for the appellant
P A Freeburn for the respondent

SOLICITORS: Brett Smith & Co for the appellant
Minter Ellison for the respondent

[1] **THE COURT:** The appellant, Michael Coroneos, is a medical practitioner who specialises as a neurosurgeon. Consequent upon his conviction in January 1994 on his plea of guilty to a charge of defrauding the Commonwealth, the respondent, the Medical Board of Queensland, charged him before the Medical Assessment Tribunal with misconduct in a professional respect. The Tribunal suspended him from practice for 12 months and on re-admission his right to practice was subject to a number of conditions imposed by that Tribunal. Then in about July 1998 the respondent resolved to hold an inquiry into the appellant's eligibility to remain registered as a medical practitioner pursuant to the *Medical Act* 1939. As a result of that inquiry the respondent resolved that conditions should be imposed on the appellant's right to practice in the future. The appellant objected to those conditions and appealed to the Medical Assessment Tribunal. After a lengthy hearing that Tribunal determined on 15 August 2000 that the appellant's registration should be subject to conditions, but with some changes from those originally proposed by the respondent. Pursuant to the provisions of the 1939 Act the appellant appealed from that decision to this Court by way of Case Stated.

[2] The appeal was heard on 23 May 2001 and judgment handed down on 20 July 2001; the decision of the Court essentially confirmed the order of the Tribunal: *Coroneos v The Medical Board of Queensland* [2001] QCA 268. The conditions as then imposed are set out in the reasons for judgment.

[3] Thereafter the 1939 Act was replaced by the *Health Practitioners (Professional Standards) Act* 1999 ("the Act"). Section 125 of that Act provides that the respondent "may start disciplinary proceedings against the registrant if it reasonably believes a disciplinary matter exists in relation to the registrant". Such proceedings may be started by the respondent referring the matter for hearing by a Tribunal constituted pursuant to the Act (s 126(1)). Section 124(1)(b) provides that it is a ground for disciplinary action if the registrant has failed to comply with a condition of practice imposed pursuant to the Act on the registrant.

[4] In the present case the respondent contended that the appellant had failed to comply with conditions of practice imposed on him, namely the conditions of practice confirmed by the order of this Court of 20 July 2001. By Referral Notice dated 9 November 2001 that disciplinary matter was referred to the Health Practitioner's Tribunal pursuant to the Act. In the statement by the respondent containing the grounds for disciplinary action the following ten conditions imposed pursuant to the orders referred to above were set out:

> "(i) The Registrant must participate in treatment with a psychiatrist of his choice to be selected from a list of five provided by the Board for a period of 3 years from today;
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> (ii) The Registrant must attend treatment at a frequency to be determined by that treating psychiatrist;
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> (iii) The Registrant must provide the treating psychiatrist with a copy of the Tribunal's Judgment and Reasons of 7 August 2000 and with any further material the treating psychiatrist shall reasonably require;
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> (iv) The Registrant must consent to the treating psychiatrist reporting to the Board immediately there is a termination of treatment or a significant change in the practitioner's health but otherwise on a quarterly basis regarding dates of attendance only;
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> (v) The Registrant must attend for review by a psychiatrist nominated by the Board at the Board's expense, at such times as the Board may from time to time determine but no more frequently than at six monthly intervals;
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> (vi) The Registrant must consent to the psychiatrist nominated by the Board reporting to the Board following each such review assessment;
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> (vii) (a) The Registrant must engage a practising neurosurgical peer to act as his support colleague;
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> (b) For three years from today the Registrant must attend meetings at least monthly with the support colleague to discuss his cases and surgical procedures particularly those cases on his operating lists;

(c) The Registrant must participate in neurosurgical morbidity and mortality meetings either with the support colleague or as arranged by the support colleague;

(d) The Registrant must jointly with the support colleague submit a six monthly report to the Board which report must include detail of:

1. The date and duration of his meetings with the support colleague,

2. The dates and places of neurosurgical morbidity and mortality meetings participated in by the Registrant,

3. The dates and places and nature of other education activities engaged in by the Registrant;

(viii) The Registrant must meet the annual CME requirements of the Royal Australasian College of Surgeons with a maximum of one overseas meeting per year to count towards those CME requirements with at least 75 percent or more of the requirements counted to be in fields related to neurosurgery;

(ix) The Registrant must submit a diary of CME activities to the support colleague or the Board each six months commencing by 31 January 2001 in respect of the period to 31 December 2000;

(x) The Registrant must do all in his power to further his application to rejoin the Neurosurgical Society of Australasia and to maintain any such membership granted to him."

[5] That statement also contained a number of allegations of fact. It asserted that between 15 August 2000 and 5 February 2001 the appellant did not contact the respondent. It alleged that prior to the earlier hearing in this Court there had been correspondence between the parties relating to a possible stay of the conditions, but no agreement was reached, and the appellant at no time applied for a stay of conditions. It alleged that the conditions were not complied with prior to the determination of the Case Stated by this Court and also that since then the appellant had failed and has continued to fail to comply with the conditions. It specifically alleged a breach of conditions (i), (ii), (vii), (ix) and (x) thereof.

[6] The appellant countered by filing a Notice of Review dated 18 December 2001 seeking a review by the Tribunal pursuant to ss 337(a) and (b) and 403(1) of the Act of the conditions imposed on his registration. By that Notice of Review he alleged that he was "not presently suffering from any mental impairment, disability, condition or disorder that detrimentally affects or is likely to detrimentally affect his mental capacity to practice medicine". He also alleged that in all respects he was

"presently competent to practice medicine" and that the conditions imposed "have proved to be impractical and unworkable".

[7] The Tribunal which heard both the respondent's referral and the appellant's Notice of Review was comprised of a District Court judge sitting with assessors as provided for by ss 27, 31 and 34 of the Act. After receiving extensive evidence the Tribunal handed down its decision on 19 August 2002. As the published reasons for judgment indicate the Tribunal found the breaches alleged by the respondent proved. The reasons stated that the breaches had to be "regarded as serious" and called "for significant censure". The Tribunal in consequence ordered "that the registrant's registration be suspended for a period [of] three months as a result of his failure to comply with the conditions imposed by the Medical Assessment Tribunal".

[8] The Tribunal then went on to consider the appellant's application for review of the conditions imposed. The reasons noted that the respondent "has conceded that the conditions imposed in relation [to] medical treatment are no longer necessary". The Tribunal then found that the "condition relating to engaging a peer would appear to be no longer necessary and in any event virtually unworkable". The Tribunal thus ordered that conditions (i) to (vii) be deleted.

[9] The Tribunal gave further consideration to the other conditions and made some variations to them. The reasons concluded by saying:

> "(1) In each calendar year in which these conditions apply, the registrant must meet one third of the triennial CME requirements of the Royal college of Surgeons with a maximum of one overseas meeting per year to count towards those CME requirements and with at least 75% of the requirements counted to be in fields related to neurosurgery;
>
> (2) The registrant must submit a diary of CME activities to the Board every six months in which these conditions apply, with the first such report to be submitted on or before 31 July 2003 in respect of the six month period to 30 June 2003. Each diary is to be accompanied by the verification requirements of the Royal Australasian College of Surgeons.
>
> (3) The registrant must do all in his power to:
>
> (a) make an application to join the Neurosurgical Society of Australasia; and
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> (b) to further any such application; and
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> (c) to maintain any such membership granted to him.
>
> (4) The registrant must submit to the Board a report of his efforts to comply with this condition on or before 31 January in each calendar year in which these conditions apply.

> The conditions will apply from the immediately upon the resumption of the registration of the registrant for a period of three years."

[10] The formal order taken out consequent upon the publication of those reasons was significantly defective in that it did not contain all of the orders just detailed. On the hearing of the appeal counsel for each party agreed that the Court should make an order rectifying that defect.

[11] From those Orders of the Tribunal the appellant has appealed to this Court pursuant to s 346 and s 347 of the Act. Section 348 provides that an appeal "may be made only on a question of law".

[12] Partly because of the defect in the formal order as taken out the Notice of Appeal does not truly reflect the relief that the appellant seeks. Essentially the appellant seeks to have the suspension order overturned either on the basis that the Tribunal made errors of law in arriving at the decision that breaches had been proved or alternatively on the ground that the penalty imposed was manifestly excessive. Further, the appellant contends that there was no evidence on which the variation in conditions and extension of time during which they were to apply could be justified. Of course, there is no appeal against the Order of the Tribunal deleting conditions (i) to (vii).

[13] Senior counsel for the appellant was asked at the outset of the hearing to articulate the errors of law on which the appeal against the suspension was based. Thirteen errors were asserted with respect to the finding that the appellant was in breach of the applicable conditions. Those points can be summarised as follows:

> (1) The Tribunal erred in law in that it failed to take into account the purpose for which the conditions were imposed, namely the conditions now found in s 123 of the Act;
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> (2) The Tribunal erred in failing to take into account the fact that certain relevant conditions were impracticable or were thereafter to be abandoned;
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> (3) The Tribunal erred in law in regarding as irrelevant the delay in the respondent nominating an appropriate medical panel;
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> (4) The Tribunal erred in law in not taking into account that during the pendency of the appeal by way of Case Stated to the Court of Appeal there were negotiations with respect to a stay;
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> (5) The Tribunal erred in law in regarding the appellant's failure to comply with conditions as a continuing breach during the pendency of the hearing before the Court of Appeal;
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> (6) The Tribunal erred in law in failing to regard as relevant delays in obtaining an appointment with a psychiatrist after the appellant had nominated a particular psychiatrist;
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> (7) The Tribunal erred in law in failing to give due consideration to the delay caused as a result of the

nomination of Dr Rodney as a psychiatrist to examine the appellant;

(8) The Tribunal erred in law in failing to give weight to the fact that the appellant did attend on Dr Rodney for consultation and that further consultation was terminated by Dr Rodney;

(9) The Tribunal erred in law in that there was no evidence supporting a finding that there was a breach of the condition with regard to psychiatric treatment;

(10) The Tribunal erred in law in failing to take into account that the continuing medical education condition was fulfilled although late;

(11) The Tribunal erred in law in failing to take into account that the respondent was not the authority which regulated continuing medical education for specialists;

(12) The Tribunal erred in law in failing to take into account that in nominating a list of psychiatrists the respondent did not consult beforehand with the psychiatrists to ascertain whether they were prepared to act;

(13) The Tribunal erred in law in that there was no evidence to support the conclusion that the appellant was in breach of the condition requiring him to apply for membership of the Neurosurgical Society of Australasia.

[14] As already noted the appellant also contended that the penalty imposed, namely three months suspension, was manifestly excessive. Statements in cases such as *Dinsdale v The Queen* (2000) 202 CLR 321, especially at 324-6, 329, 340 and 359, indicate that the imposition of a manifestly excessive sentence is an error of law.

[15] In addition to contending that the Tribunal erred in law in making the orders which it did with respect to the ongoing conditions (the error of law being there was no evidence to support the making of that order) the appellant relied on the following additional grounds referred to in his Notice of Appeal:

> "12. When dealing with the Appellant's application to review those conditions, the Tribunal erred in law by failing to base its decision on the evidence, all unchallenged, that the Appellant was competent to practice and was not suffering from any mental disability or dysfunctional personality trait.
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> 13. The Tribunal had no power in law to impose the conditions it did on the Registrant by discriminating him from other competent Registrants.
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> 14. The imposition of conditions for a further period of 3 years was contrary to the evidence, was not founded on any rational basis that such conditions were necessary and was manifestly unreasonable."

[16] Oral evidence and submissions occupied some three days of hearing before the Tribunal. The record books contain some 550 pages which includes a deal of affidavit material and documentary evidence. During the hearing before the Tribunal the appellant was examined by Dr Estensen, a psychiatrist nominated by the respondent. He reported that the appellant "showed no current signs of psychiatric illness or disorder and that included the absence of personality disorder". It was in consequence of that report that the respondent conceded that it was no longer necessary for conditions (i) to (vi) to remain as conditions of the appellant's registration. Against that background the Tribunal noted in its judgment that the appellant had "shown significant positive and adaptive changes in his personality function" since 15 August 2000.

[17] The reasons for judgment of the Tribunal are detailed. It is noted therein that "there now exists a situation, where both parties seem unwilling to give each other an inch or concede that the other side may in some way have cause for complaint". That would seem to be an accurate assessment of the present situation. But what is more important for present purposes is that the reasons indicate that the Tribunal reached a conclusion "that Dr Coroneos and his legal advisers have at every instance tried to frustrate the Board in their efforts to ensure that he complies with the conditions imposed by the Medical Assessment Tribunal".

[18] After reviewing the evidence the Tribunal concluded "that the conditions imposed were not at the time, they were imposed, unreasonable". The reasons then go on:

> "It is clear from the facts as outlined above that the registrant did not comply with the spirit of the conditions nor with the terms of the conditions. He, through his solicitors, sought to thwart the conditions and delay compliance at every opportunity. This was done by not replying to letters, insisting that the Board arrange things that he could have arranged and rejecting any names put forward by the Board as a matter of course.
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> The registrant confirmed in his evidence that he knew and understood the conditions that had been imposed and that he knew that he had to comply with the conditions. It was confirmed by his solicitor that Dr Coroneos was kept informed of developments and that the solicitors acted in accordance with his instructions at all times.
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> …
>
> The registrant's attitude remains one of defiance. He has failed to comply with the conditions in relation to treatment, submitting his diary and membership of the Neurosurgical Society and his unwillingness to comply persists."

[19] The Tribunal also concluded that the appellant's evidence with respect to his obligation to seek membership of the Neurosurgical Society illustrates that he "does not regard seriously his obligation to do all in his power to comply with the conditions".

[20] In essence those were the findings of the Tribunal which amounted to findings that there had been breaches of the relevant conditions. The question for this Court is

whether or not the Tribunal erred in law in so finding; was there evidence to support the findings.

[21] It therefore becomes necessary to consider each of the 13 matters identified by counsel for the appellant in his submissions as being errors of law. The issues were canvassed in the written outlines of argument submitted by each side and expanded on in oral argument. Counsel for the respondent directed the Court's attention to passages in the record books which answered each of the points relied on by counsel for the appellant. It is necessary in these reasons to deal with each if the 13 matters.

[22] (1) In the reasons for judgment the provisions of s 123 of the Act were cited as indicating the "purpose of the disciplinary proceedings". The purposes set out in that section of the Act are to protect the public, to uphold standards of practice within health professions, and to maintain public confidence in health professions. In dealing with the breaches of the conditions found the Tribunal said: "If medical practitioners are allowed to ignore conditions imposed by the very tribunal set up to discipline registrants then it will be impossible for the Medical Board or any Board of a like nature to uphold standards of practice within the profession". Given that such matters were expressly dealt with in the reasons it cannot be said that the Tribunal erred in law in that it failed to take into account the purpose for which the conditions were imposed.

[23] (2) The submission here is that, as the Tribunal concluded that conditions (i) to (vii) should be deleted for the future, it erred in law in that it did not have regard to that circumstance in finding breaches proved. Clearly the appellant was under an obligation to comply with the conditions until such time as they were deleted. The critical time was from 15 August 2000 until at least 5 February 2002, the first day of hearing before the Tribunal. There was no error of law in the Tribunal finding breaches proved during that period; the fact that the conditions were deleted for the future was not a decisive factor in considering whether past breaches had been proved.

[24] (3) In detailing the history of the respondent's attempts to secure compliance with the conditions, and the appellant's attitude to compliance with the conditions, the Tribunal in its reasons referred to the question of "delay" at various stages. It cannot be said that the Tribunal regarded delay as irrelevant. Even if there be some fault in the respondent in delaying nomination of an appropriate panel, it was the appellant's conduct thereafter which was relevant.

[25] (4) In the reasons the Tribunal referred to the correspondence between the imposition of the conditions by the Medical Assessment Tribunal and the determination by this court of the Case Stated. There was no application to the Court for a stay. It cannot be said in those circumstances that the Tribunal failed to take into account the negotiations at that stage between the parties.

[26] (5) As there was no stay it cannot be said that the Tribunal erred in law in regarding the failure to comply with conditions as a continuing breach during the pendency of the hearing before the Court of Appeal of the Case Stated.

[27] (6) Again the reasons do record that there was delay in obtaining an appointment with Dr Hollingsworth because of the difficulty in obtaining a time suitable to both parties. Again no error of law is demonstrated here.

[28] (7) The reasons set out in some detail the attempts to have the appellant examined by Dr Rodney. It cannot be said that the delay associated therewith was a matter not given due consideration by the Tribunal.

[29] (8) The reasons set out in some detail the position with respect to Dr Rodney. After examining the appellant Dr Rodney reported that the appellant did not want treatment; the appellant felt it unnecessary as he was already seeing a psychiatrist. Dr Rodney then stated that it was clear to him that the registrant had no intention or desire to comply with the conditions imposed by the Medical Assessment Tribunal. That was referred to in the reasons of the Tribunal. Again there is nothing to indicate any error of law on the part of the Tribunal in failing to give weight to matters made relevant by the examination carried out by Dr Rodney.

[30] (9) Given all of the evidence before the Tribunal and the reasons for decision, it is clear that there was ample evidence supporting a finding that the appellant was in breach of the conditions with regard to psychiatric treatment.

[31] (10) The Tribunal dealt at some length in its reasons with the failure to comply on time with the continuing medical education condition. The findings noted that the appellant was obliged to comply with this condition from time to time and had in fact only complied, albeit late, once. No error of law is demonstrated here.

[32] (11) The Tribunal did note that there had been some changes with respect to continuing medical education requirements but pointed out that the appellant had not sought any variation of the conditions because of that. No error of law is demonstrated in connection with this point. The matters referred to by the appellant resulted in the Tribunal varying the terms of condition (viii).

[33] (12) As already noted the reasons dealt at some length with the attempts to have the appellant examined by a psychiatrist during the relevant period. Even if the respondent did not consult with psychiatrists beforehand to ascertain their willingness to act, that did not absolve the appellant from the breach otherwise proved.

[34] (13) The Tribunal in its reasons dealt with the condition relating to membership of the Neurosurgical Society of Australasia. There was evidence supporting the finding which the Tribunal made. The reasons amply demonstrate the evidence on which the finding was made.

[35] A consideration of the reasons for judgment of the Tribunal establishes that it did not err in law in failing to have regard to relevant matters, and its conclusion that there had been a breach of the conditions was supported by evidence placed before it.

[36] That leads to the next question, whether the penalty imposed, namely three months suspension, was manifestly excessive. Many of the matters raised by counsel for the appellant as demonstrating an error of law in finding that breaches were proved could be relevant on the issue of penalty. For example, any undue delay by the respondent in nominating the medical panel might be a mitigating factor when it comes to penalty. But it seems clear that the Tribunal did take all such matters into account, but nevertheless concluded that the appellant knowingly and wilfully breached the conditions. Given the reasons for the conditions being imposed in the

first place the Tribunal was justified in concluding that the conduct of the appellant called for significant censure.

[37] Counsel were unable to place before the Court any comparable decisions on the issue of penalty. Counsel for the appellant referred to three cases each of which involved sexual misconduct by a medical practitioner with a patient: *T v Medical Board of Queensland* [2002] QHPT 004, *Medical Board of Queensland v Dr H* [2001] HPT 002, and *Medical Board of Queensland v A* [2003] QHPT 005. In *T* the Board suspended the practitioner from practice forthwith for the purpose of protecting vulnerable persons because it was investigating complaints of a sexual nature by three patients and had received statements supporting the complaints. At the stage the appeal came before the Tribunal the complaints were still under investigation and the practitioner was denying the substance of two of the complaints. The Tribunal was of the view that the protection of vulnerable persons could have been achieved by the imposition of appropriate conditions upon the practitioner's registration. It set aside the suspension order and in lieu thereof imposed a number of conditions upon the practitioner's right to practice.

[38] The Tribunal in *H* was concerned with a referral by the Board of an allegation of unsatisfactory professional conduct involving inappropriate sexual contact with a patient. The Tribunal found the charges proved, suspended the practitioner for three months, and imposed a series of conditions on his right to practice for a period of two years thereafter. *A* was also a case of unsatisfactory professional conduct involving maintaining a sexual relationship with a patient. The Tribunal found the matter proved, suspended registration for one month, imposed a monetary penalty, and imposed a condition on future practice for 12 months.

[39] None of the cases are truly comparable, but nevertheless they demonstrate that suspension for three months was not a manifestly excessive penalty to impose for the breaches in question. Given the history of the imposition of the conditions the breaches were, to use the words of the Tribunal, "one[s] of defiance". As the other cases amply demonstrate the Tribunal frequently imposes conditions on the registration of a medical practitioner as a requirement for future practice. If such conditions can be ignored with impunity then, as the Tribunal said, it would be impossible for the respondent to uphold standards of practice within the profession.

[40] It follows that the penalty imposed, namely suspension for three months, was not manifestly excessive.

[41] We turn now to the appeal against the decision of the Tribunal imposing varied conditions on the appellant's registration for a period of three years. The Tribunal appears to have based its decision on this aspect of the matter largely against the background of the findings made with respect to the breaches of conditions. The only additional relevant matter appearing in the reasons is the following:

> "Upon resumption of practice the registrant however may still suffer from the isolation from his peer[s] that seems to be a factor of the small number [of] practitioners in this field, the recalcitrant attitude of some of his peers and the fact that he operates from a hospital where he is the sole neurosurgeon. The remaining conditions are not particularly onerous and they serve the purpose of encouraging the registrant to remain diligent in his continuing education and efforts to reassimilate into the neurosurgical community.

> After reviewing the conditions, it is the decision of the Tribunal that the conditions should be varied as follows. . .".

[42] To a large extent it appears that the Tribunal considered that the remaining conditions should continue to apply partly because of the defiant attitude the appellant had displayed to date in refusing to comply with conditions, some at least of which were not particularly onerous. Failing to comply with conditions (viii), (ix) and (x) up to the hearing before the Tribunal would provide a sufficient basis in law for continuing such conditions for a further three years. The Tribunal was certainly entitled to adopt that approach and the remarks quoted above were not inappropriate given the evidence before it.

[43] Given the whole of the proceedings before the Tribunal there was ample evidence before it supporting the continuation of the conditions (as varied by the Tribunal) for a period of three years commencing from the resumption of practice after the three months suspension. The appellant has not demonstrated that there was an error of law because there was no evidence to support the making of that order.

[44] Ground 12 in the Notice of Appeal is premised on the proposition that if the appellant was not found to be suffering from some mental disability or dysfunctional personality trait there was no evidentiary basis for imposing the conditions in question. There is no logical justification for that approach. The mere fact of defying the respondent by refusing to comply with the conditions between 15 August 2000 and 5 February 2001 provided a sufficient basis for the Tribunal considering it necessary that some conditions remain in place for the period of three years.

[45] Ground 13 in the Notice of Appeal asserts that the Tribunal had no power to impose the conditions because they "discriminated" him from other competent registrants. It is true that other competent registrants are not subject to those conditions, but they have not been found guilty of failing to comply with conditions of practice lawfully imposed previously on registration. Clearly the Tribunal had the power to impose conditions given all of the findings made against the appellant.

[46] In those circumstances it cannot be said that the imposition of the conditions for a further period of three years was contrary to the evidence, nor are they manifestly unreasonable. As the Tribunal said in its reasons those conditions "are not particularly onerous". There was a rational basis for them being imposed, namely the considerations in the passage quoted above from the reasons of the Tribunal. It follows that the appeal against the imposition of the four conditions in question for a period of three years upon the resumption of registration cannot be sustained.

[47] After the appeal to this Court was lodged the appellant successfully applied for a stay of the order that his registration be suspended for three months. Consequent upon the order of this Court in this matter the appellant will have to serve that period of three months suspension, and thereafter the continuing conditions as varied by the Tribunal would apply for the period of three years. It follows that the condition as formulated by the Tribunal with regard to reporting on compliance with CME requirements would have to be varied to provide for appropriate dates. That has been attended to in the formal order of this Court.

[48] This Court therefore orders:

1. On the Referral Notice filed 12 November 2001:

> Order that the registration of Michael Coroneos pursuant to the provisions of the *Health Practitioners (Professional Standards) Act* 1999 be suspended for a period of three months as a result of his failure to comply with conditions imposed on his registration by the Medical Assessment Tribunal.

2. On the Notice of Review dated 18 December 2001:

(i) Order that conditions (i) to (vii) of the conditions imposed by the Medical Assessment Tribunal in its order of 15 August 2000 be deleted;

(ii) Pursuant to s 345 of the *Health Practitioners (Professional Standards) Act* 1999 vary the conditions imposed by the Medical Assessment Tribunal on the registration of Michael Coroneos by deleting conditions (viii), (ix) and (x) and by imposing in lieu thereof the following conditions on his registration to apply for a period of three years immediately from the resumption of his registration after serving the period of three months suspension:

(a) In each calendar year in which these conditions apply, the registrant must meet one third of the triennial CME requirements of the Royal College of Surgeons with a maximum of one overseas meeting per year to count towards those CME requirements and with at least 75% of the requirements counted to be in fields related to neurosurgery;

(b) The registrant must submit a diary of CME activities to the Medical Board every six months in which these conditions apply with the first such report to be submitted on or before 31 January 2004 in respect of the six month period to 31 December 2003. Each diary to be accompanied by the verification requirements of the Royal Australasian College of Surgeons;

(c) The registrant must do all in his power to:

(i) make an application to join the Neurological Society of Australasia; and

(ii) to further any such application; and

(iii) to maintain any such membership granted to him;

(d) The registrant must submit to the Medical Board a report of his efforts to comply with conditions on or before 31 January in each calendar year in which these conditions apply.

3. Otherwise order that the appeal be dismissed with costs.