

HEALTH PRACTITIONERS TRIBUNAL OF QUEENSLAND

CITATION: *Medical Radiation Technologists Board of Queensland v Hedges* [2009] QHPT 3

PARTIES: **MALCOLM HEDGES**
(Registrant)
v
MEDICAL RADIATION TECHNOLOGISTS BOARD OF QUEENSLAND
(Registrant's Board)

FILE NO/S: 358/08

DIVISION: Health Practitioners Tribunal

PROCEEDING: Disciplinary Action

ORIGINATING COURT: Health Practitioners Tribunal

DELIVERED ON: 27 February 2009

DELIVERED AT: Brisbane

HEARING DATE: 27 February 2009

JUDGE: M W Forde DCJ with Ms M. Wilson, Ms T. Halligan, Mr G. Lamperd

ORDER:

1. Pursuant to s.241(2)(i), the registrant's registration be cancelled.
2. Pursuant to s.241(4), the Tribunal states that the registrant must not be registered by the Board for at least a period of 12 months from the date of these orders.
3. Pursuant to s.241(2)(j)(i), the Tribunal sets the following conditions under which the registrant may apply for registration:
 - (a) To demonstrate his alcohol dependence is under control as reflected in total abstinence over a minimum period of 12 months immediately prior to applying for

registration, including:

i. To regularly consult a psychiatrist specialising in addiction medicine for treatment of his alcohol dependence (or alternatively regular attendance at an ATODS Clinic) and to be fully compliant with this treatment for a minimum period of six months;

ii. To undergo monthly haematological testing [Carbohydrate Deficit Transferrin (CDT), Mean Corpuscular Volume (MCV) and Liver Function test (LFT)] to demonstrate abstinence from alcohol consumption for at least three consecutive months

- b) To have his fitness for practice confirmed by his psychiatrist or ATODS clinic.**
- c) To undergo formal neuropsychological testing and assessment to determine any cognitive impairment.**
- d) To have fitness for practice confirmed by a Board approved psychiatrist.**

4. Pursuant to s.241(2)(j)(ii), the Tribunal sets the following conditions that must be imposed on any future registration of the registrant by the Board:

- a) That he remain totally abstinent from alcohol.**
- b) That he undergo alcohol breath testing in**

accordance with the Board's protocol ("the breath-testing protocol").

- c) That he attend for CDT, MCV and LFT testing at a frequency as required by the Board and in accordance with the Board's protocol ("the blood testing protocol"). Attendance for such testing shall occur within seven days of this condition becoming effective, unless otherwise directed by the Board.
- d) That he submit to the medical supervision of one experienced general practitioner (of at least 5 years experience) (who is not a member of the registrant's family or a professional colleague) on whom the registrant will attend at least every two months for review. The general practitioner will prescribe and supervise all medications other than those prescribed by treating specialists. The registrant will continue to take medication as prescribed by his treating general practitioner. The registrant will keep the Board informed of the name of his current treating general practitioner and authorise him/her to notify the Board if the registrant fails to attend for treatment or review, or if there is a significant change in his health status. Should the registrant attend another general practitioner for any reason, the registrant

will consent to that general practitioner communicating with the registrant's regular general practitioner.

- e) That he will attend as reasonably required for treatment by a Board approved psychiatrist of his own choice (an addiction medicine specialist experienced in the management of alcohol abuse/dependency) at a frequency to be determined by the treating psychiatrist and for such length of time as to be reasonably determined by the treating psychiatrist. This will be at the registrant's own expense. The registrant will continue to take medication as prescribed by his treating psychiatrist and authorise the treating psychiatrist to inform the Board of termination of treatment or if there is a significant change in the registrant's health status. The registrant will authorise the treating psychiatrist to notify the Board when the psychiatrist determines the registrant no longer needs to attend for treatment. The registrant will also authorise the Board to notify his treating psychiatrist when this condition has been removed from his registration.
- f) The registrant will attend for review by a doctor or doctors nominated by the Board as requested by the Board. The registrant

is to meet the cost of those reviews. The Board is authorised to provide a copy of reports provided to the Board on such a review to the registrant's treating doctors.

- g) The registrant will not work in sole practice.**
- h) The registrant will only work in a supervised position approved by the Board and will adhere to any work restrictions, such as workloads/hours placed on him by the Board. The registrant will recruit a radiographer colleague of no less than five (5) years experience (to be approved by the Board) to act as a workplace supervisor. The registrant will authorise the Board to provide a copy of this Order and the referral notice in relation to this matter to both his supervisor and employer (or equivalent). The registrant will authorise the supervisor or employer to release workplace progress reports to the Board in a format and frequency required by the Board, and to notify the Board of any concerns or issues arising in relation to the registrant's practice.**
- i) The registrant will notify the Board, his supervisor, his general practitioner, and treating specialist immediately he becomes aware that there is a material change in**

his health.

5. Pursuant to s.242(1)(a) the conditions outlined at paragraph 4 must be recorded in the Board's register for the period for which the conditions are in force.
6. The cost of compliance with the conditions contained within paragraphs 3 and 4 shall be borne wholly by the registrant.
7. The registrant shall pay the Board's costs of and incidental to these proceedings in such amount as may be agreed between the parties or, in the absence of agreement, to be assessed.

CATCHWORDS: HEALTH PRACTITIONERS TRIBUNAL – Radiographer – Unsatisfactory professional conduct – Impairment – Alcoholism and psychiatric problems – Cancellation.

Health Practitioners (Professional Standards) Act 1999 (Qld)
ss59, 124, 126, 223, 241, 242.

Medical Board of Queensland v Hough [2007] QHPT 004.

Psychologists Board of Queensland v R [2004] QHPT 007.

Medical Board of Queensland v Owens [2007] QHPT 002.

COUNSEL: B. Stephens for the registrant

S. Gallagher for the Board

SOLICITORS: James Watt & Company for the registrant

Rodgers, Barnes and Green for the Board

Introduction

1. The registrant has had his registration suspended pursuant to section 59 of the *Health Practitioners (Professional Standards) Act 1999* (the “Act”). The catalyst for this was an event which occurred on 12 October 2007 whilst the registrant was employed by Queensland Diagnostic Imaging at Chermside. The registrant suffered a grand mal seizure followed by a psychotic episode. He tried to gain entry to at least two examination rooms then occupied by patients and also a toilet cubicle also occupied by a patient when there was no reason to do so. He had to be forcibly restrained.
2. Prior to this event, and between 23 July 2007 and 12 October 2007, the registrant would attend at Chermside whilst adversely affected by alcohol. This in turn had an adverse affect on his ability to carry out his employment as a radiographer. He was requested on occasions to go home.¹
3. This matter is before the Tribunal pursuant to s 59(4) of the Act as the Board saw fit to suspend the registration of the registrant based upon the matters referred to in s 59(1) in that:
 - (a) the registrant poses a serious potential risk to the well being of vulnerable persons; and
 - (b) immediate action to suspend, or impose conditions on, the registrant’s registration is necessary to protect the vulnerable persons.

This case has been referred to the Tribunal pursuant to s 126(1) of the Act. The ground for disciplinary action in s 124 of the Act relate principally to his impairment caused by his alcoholism.² If proved, it may also amount to unsatisfactory

¹ A more detailed history is contained in the affidavit of Michael Stanton Crouch filed on 13 November 2008, the managing radiologist at the Chermside practice. His version is supported by other professionals at the practice.

² s124(2)

professional conduct.³ A hearing for impairment under the Act is not open to the public unless:

- (a) the tribunal reasonably believes it is in the public interest for it to be open to the public; or
- (b) the registrant asks for it to be open to the public.

It is open to the Tribunal to suppress the name of the registrant.⁴

History of medical treatment of registrant

4. The registrant was seen by Dr Michael Daubney, a psychiatrist, in December 2004. The registrant was suffering from symptoms of stress, depression and social withdrawal. Prescriptions for drugs included Seroquel 200 mg BD, Lithium Carbonate 500 mg BD and prn Valium. He was last seen on 25 August 2008. He was diagnosed as suffering from Major Depressive Disorder and Alcohol Abuse and Dependence. In December 2006, he was admitted to Prince Charles Hospital at Chermeside with “Acute Psychotic/Manic Episode”.⁵ Dr Daubney attributed the seizure to withdrawal from alcohol. Dr Saines, a neurologist, and Dr Prior expressed a similar view.⁶ Dr Daubney opined that if the registrant were to remain in treatment and abstained from alcohol, then it would decrease the likelihood of a recurrence of a seizure. Dr Daubney was also of the view that if the registrant abstained from alcohol for a significant period, then a graduated return to work with professional supervision was practicable. Dr Saines also expressed a similar opinion. He also believed that there was some mild cognitive impairment but accepted that depression could affect the findings. There is no evidence that abstinence or treatment followed after 25 August 2008. Regular testing would involve the use of a breathalyser, regular blood tests including LFTs, amylase and Full Blood Count.⁷ The opinion of Dr Apel that the registrant was alcohol dependent as at November 2007 confirms the later history.⁸ In view of the reports of Dr Daubney and the other experts, it is not necessary to deal in

³ s124(1)(a)

⁴ s223

⁵ These details and the subsequent history attributable to Dr Daubney can be found in Ex JMP2 to the affidavit of James Michael Pattison filed 19 November 2008

⁶ Report 10 July 2008 being Ex JMP1 ibid; Report of Dr Prior date 20 February 2009

⁷ Op Cit at [12]

⁸ Report dated 6 November 2007 being Ex GRA 1 to his affidavit filed 13 November 2008

any detail with the report of Dr Apel. Events have overtaken the history which he took in 2007.

Opinion of Dr Curtis

5. This matter was adjourned to allow the report of Dr Curtis to be obtained. It is noted that the registrant saw Dr Curtis on 14 August 2008, having been referred on 14 July.⁹ The main points made by Dr Curtis are as follows:

- (a) At that time the registrant was still being treated by Dr Daubney with regular tests being carried out and the registrant was attending AA meetings regularly.
- (b) The registrant believed that the psychiatric treatment arrangements made the likelihood of relapse of his problems less likely, and that he was fit to resume his normal duties.
- (c) The registrant believed that his seizure in October 2007 was related to his cessation of medication not alcohol.
- (d) That the excessive alcohol consumption was due to stress from both a marital breakdown and business failures. He had been married for 18 years and had three children.
- (e) The registrant exhibited a lack of insight commensurate with the significant degree of psychophysiological damage identified by Dr Saines. Dr Curtis diagnosed alcoholism in remission and Bipolar Affective Disorder and a Personality Disorder.
- (f) That without treatment, the registrant was unlikely to manage professional life. Continuity of treatment of the alcoholism was also necessary.

Opinion of Dr Prior

6. In his report¹⁰ Dr Prior expressed the view that the registrant suffers from an Alcohol Dependence Syndrome and a likely Bipolar Affective Disorder. The former was gauged to be in the moderate to severe range. He was further of the view that the

⁹ His report is Ex FIC 1 to his affidavit filed 30 January 2009

¹⁰ Dated 20 February 2009 and prepared for the Board

registrant has little insight into his alcohol problem. The history which the registrant gave to Dr Prior did not coincide with the medical notes available from the general practitioner in relation to alcohol consumption. Dr Prior agrees generally with the diagnosis of both Dr Daubney and Dr Staines. Dr Prior suggests an abstinence period of 12 months¹¹ with at least three months of documented abstinence verified by tests on a monthly basis as discussed above. Ongoing medical treatment is also recommended by Dr Prior. He also suggests some neuropsychological testing before the registrant recommences to practise. Dr Saines raised the issue of cognitive impairment and it seems that Dr Prior suggests that it should be explored to determine the extent of any alcohol related damage. Alcohol abstinence is the common thread with both Dr Prior and the other practitioners who have examined the registrant, as there is a high risk of relapse. Ongoing supervision once the registrant is allowed to practise is seen as desirable by Dr Prior.

Objects of Act

7. The objects of the Act are as follows:

- (i) to protect the public by ensuring health care is delivered by registrants in a professional, safe and competent way; and
- (ii) to uphold the standards of practice within the health professions; and
- (iii) to maintain public confidence in the health professions.

It is clear that the registrant requires some treatment of an ongoing nature. It would then be desirable to determine whether he has his alcoholism under control. Thereafter, a period of supervision is necessary to ensure that his standard practice is what is expected of a radiographer. The public have to be protected from any lapse either in relation to alcohol or mental state. Public confidence in his profession must be maintained by long term treatment and ongoing supervision.

Comparative cases

8. Reference is made to the case of *Medical Board of Queensland v Hough*¹². In that case the registrant had ordered controlled drugs for a patient when under the influence of alcohol. The notes he wrote justifying the prescription were illegible. He also took

¹¹ Ibid at 3.4

¹² [2007] QHPT 004

some beer from a pantry room refrigerator to share with a palliative patient in embarrassing circumstances. Attempts to curb his behaviour were met with violence including his throwing his glass at the hospital doors. The registrant then refused offers to drive him home. He got in his car whilst intoxicated and drove home. There were two other incidents which indicated that the registrant was under the influence of alcohol whilst on duty. He was placed on conditions which he breached. He was found to be impaired due to alcohol dependence. His registration was cancelled for three years and conditions were placed upon his right to practise in the future. Some of the conditions are similar to those proposed in the present case. The long period of cancellation can be explained by Dr Hough breaching his conditions for registration on further occasions.

9. In *Psychologists Board of Queensland v R*¹³ a less serious view was taken where a psychologist breached conditions related to her drug abuse. She was found to be impaired within the meaning of the Act. She was given 12 months suspension of registration and placed on stringent conditions. In *Medical Board of Queensland v Owens*¹⁴, the registrant had breached conditions placed upon him for being impaired due to his excessive alcohol consumption. There was unsatisfactory performance of conditions relating to the relevant protocol for testing. Some of the samples provided were diluted so as to render the tests invalid. It was not established that he was an alcoholic. He was allowed to return to practice on certain conditions over a two year period.

Orders:

10. The Tribunal has considered the proposed orders by the Board. The registrant contests the twelve months cancellation of his registration. He seeks a shorter period for both cancellation and abstinence. However, in view of his history, his lack of candour with Dr Prior and the risk of re-offending, the orders suggested by the Board seem appropriate. This is an impairment case. It is in the interests of the public if this order is recorded on the register¹⁵. A regression of his conduct similar to October 2007 cannot be tolerated. If some other event occurs which may affect a member of the

¹³ [2004] QHPT 007

¹⁴ [2007] QHPT 002

¹⁵ s242(3)

public, an inspection of the register will assist the prosecution of the case. The orders will be:

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