



Health Professional Councils Authority

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Our Ref: HP20/8799

HPCA LEGAL CASE NOTE

Health Care Complaints Commission v Meneghetti [2020] NSWCATOD 39

In the matter of Health Care Complaints Commission v Meneghetti, the Civil and Administrative Tribunal considered complaints about a general practitioner's treatment of and prescribing for patients on the direction of Mr Stephen Dank who is/was a biochemist/sports scientist. Mr Dank was, at the time of his involvement with Dr Meneghetti, serving a life-time ban from participation in organised sports due to his involvement with *possession, trafficking and prescription of Performance and Image Enhancing Drugs (PIEDs)* (at paragraph 1). That ban was imposed by the Australian Sports Anti-Doping Authority.

The decision reinforces the obligation of medical practitioners to exercise independent professional judgment in providing health services to the public and the need for truthfulness and cooperation when engaging with regulators and the Tribunal regarding complaints/allegations made against them.

Background

Dr Meneghetti was a general practitioner, who graduated from medicine in 1982 in Uruguay, and who had worked as a general practitioner in Australia for 24 years. Dr Meneghetti had practised without any complaint for more than 20 years.

Following their meeting in November 2014, Dr Meneghetti entered into an agreement that Mr Dank would use a room at her practice. From this point Dr Meneghetti commenced prescribing various peptide hormones, human growth hormones and other PIEDs to both Mr Dank and patients referred by Mr Dank, the treatment of 8 of those patients was the subject of this complaint. Dr Meneghetti prescribed drugs that are both registered on the Australian Register of Therapeutic Goods, and those that have never been registered.

In August 2019, the Health Care Complaints Commission (HCCC) brought a number of complaints against Dr Meneghetti to the NSW Civil and Administrative Tribunal (the Tribunal). Dr Meneghetti admitted, albeit belatedly, all of the complaints made. Dr Meneghetti also admitted that her conduct amounted to professional misconduct. The issue for the Tribunal was therefore the protective orders that were to be made. Dr Meneghetti gave evidence at

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the hearing, which the Tribunal found as relevant to the seriousness of the conduct and the protective orders to be made.

Findings of the Tribunal

Following a hearing held on 4 and 5 March 2020 the Tribunal found all thirteen complaints proven, including the particulars of each complaint.

The complaints

Complaint one: Dr Meneghetti engaged in an inappropriate professional relationship with Mr Dank. Dr Meneghetti accepted clinical advice from Mr Dank without exercising her own independent judgment.

Complaint two: Dr Meneghetti's inappropriate treatment of Mr Dank himself, including by prescribing him dexamphetamine (a schedule 8 drug of addiction) for almost 2 years without an authority, before referring him to a psychiatrist.

Complaints three – ten: Dr Meneghetti's inappropriate management of patients through prescribing, care and treatment without reliable evidence or appropriate assessment, physical examination and the taking of medical history. Dr Meneghetti prescribed substances without valid indications, prescribed non-approved drugs and doses in excessive amounts.

Complaints 11 and 12: Dr Meneghetti's failure to keep clinical records for the patients. The Tribunal also found that Dr Meneghetti did not give a full and frank explanation for the absence of contemporaneous notes.

Complaint 13: that Dr Meneghetti is guilty of professional misconduct.

Findings made by the Tribunal

Of most importance were the Tribunal's findings that Dr Meneghetti *did not exercise any independent judgement* and that she had *effectively delegated her role as a doctor to Mr Dank* (at paragraph 22). In making those findings the Tribunal noted that Dr Meneghetti said that she knew that prescribing the substances was wrong from the start (at paragraph 21) and that the reason that she prescribed them was that Mr Dank recommended that she do so (at paragraph 22).

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Dr Meneghetti gave evidence that she took Mr Dank at face value and did not know his background or make any enquiries about him. The Tribunal found that Dr Meneghetti should have known that Mr Dank had been severely sanctioned for conduct relating to the use of PIEDs in sport.

It is also worth noting that the Tribunal found that some of the evidence that Dr Meneghetti had given previously to the Medical Council section 150 hearing, for example in relation to research that she had undertaken, was not correct (see for example at paragraphs 26 and 30). Similar findings were made as to a lack of cooperation with the HCCC's investigation (see paragraphs 29 and 110) and lack of candour in front of the Tribunal (see paragraphs 35, 83 and 86).

Consequently the Tribunal made findings against Dr Meneghetti's credibility.

Decision of the Tribunal

The Tribunal found that Dr Meneghetti's conduct, individually and cumulatively, was toward the more serious end of the scale. Dr Meneghetti had no concern for patient welfare in continuing to prescribe substances she had been told to prescribe despite pathology results indicating abnormal results. On 16 April 2020, the Tribunal cancelled Dr Meneghetti's registration as a medical practitioner and ordered that Dr Meneghetti may not apply for a review of the cancellation order for 18 months from the date of the decision.

Conclusion

The Tribunal was critical of Dr Meneghetti abrogating her professional responsibilities as a medical practitioner, failing to exercise her own independent professional judgment and not only prescribing to patients according to what Mr Dank advised her to do, but what the patients were telling her to do also.

Dr Meneghetti was also criticised in the findings of the Tribunal for a lack of candour before the Tribunal and with the regulatory authorities.

The full text of the decision can be found at:

<https://www.caselaw.nsw.gov.au/decision/5e9649a2e4b0f66047ed8a85>

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