



In the Matter of Part 6 of the Pharmacy Act 2007

In Respect of



And Complaint: 542.2019

A Report of the Professional Conduct Committee to the
Council of the Pharmaceutical Society of Ireland

1. Introduction - Summary Details

Registered Pharmacist:	██████████
Pharmacist Registration Number:	██████
Complaint Reference(s):	542.2019
Date of Application:	14 th April 2023
Public/Private Hearing:	Private
Meeting Format:	MS Teams
Members of the Committee:	Mr Mark Kane, Chair Ms Sabine Eggers MPSI Ms Lorraine Gannon
Legal Assessor:	Mr Nicholas Butler S.C
Appearances:	
For the Registrar:	Zoe Richardson, Partner, Fieldfisher LLP
In Attendance:	Aisling Ray, Solicitor, Fieldfisher LLP Caroline Murphy, Legal Affairs Manager, PSI Anna Malone, Regulatory Executive, PSI
For the Registrant:	Maria Dillon, Horan & Sons
In Attendance:	██████████ Registrant ██████████, Registrant's Attendant
Witnesses (if applicable):	None
Independent Logger:	Niamh Leahy-Kelly, D. O'Malley Stenography
Other Attendees:	None
Documentation Considered:	Core Book

2. Subject Matter of the Complaint and Proceedings

The Complaint was received from [REDACTED] (Complainant/Patient) in respect of [REDACTED] [REDACTED] (Reg No [REDACTED] on 18th November 2019. The Complaint was referred by the Preliminary Proceedings Committee on 16th January 2020 to this Committee on the grounds of poor professional performance within the meaning of Section 35(1)(b) of the Act.

3. Applications

The Committee specifically sat to hear an early application, which in short was [REDACTED] asking the Committee to request an Undertaking and Consent, pursuant to Section 46 of the Act, in order to dispose of the matter.

4. Submissions

The Registrar's Representative outlined the Complaint, process followed up to this point, the content of the Notice of Intention to Hold an Inquiry dated 8th November 2022, evidence that would be called including outlining the expert evidence at its height and indicated that [REDACTED] was making an application for the matter to be disposed of by way of Undertakings and Consent to Censure by the Council. The relevant part of the Notice of Intention to Hold an Inquiry dated 8th November 2022 being:

That you, whilst you were a Registered Pharmacist and/or Supervising Pharmacist and/or Superintendent Pharmacist at [REDACTED] [REDACTED] ("the Pharmacy");

1. On or about 4 April 2019, supplied and/or caused to be supplied and/or permitted to be supplied to [REDACTED] ("Patient A"), Pregabalin Clonmel hard caps in circumstances where this was:
 - a. otherwise than in accordance with the prescription dated 2 April 2019 used to authorise the supply (located at **Appendix A**);, which prescribes the medication Gabapentin; and/or
 - b. not clinically appropriate; and/or
2. On or about 6 April 2019, supplied and/or caused to be supplied and/or permitted to be supplied to [REDACTED] for **Patient A**, Pregabalin Clonmel hard caps in circumstances where this was:

- a. otherwise than in accordance with the prescription dated 2 April 2019 used to authorise the supply (located at **Appendix A**), which prescribes the medication Gabapentin; and/or
 - b. not clinically appropriate; and/or
3. By reason of one or more of the sub-allegations and allegations contained at 1 and/or 2 above, you failed to comply with the following SOPs which were in place in the Pharmacy;
- a. "4. SOP for Assembly and Labelling"; and/or
 - b. "5. SOP for Accuracy Checking"; and/or

The relevant part of [REDACTED] offered Undertaking and Consent being:

I, [REDACTED] MPSI ([REDACTED]) hereby undertaking as follows;

1. Undertake not to repeat the conduct the subject of the complaint, in particular;
 - a. Double-check all medications and the dose of medication prescribed against the relevant prescription prior to supply;
 - b. Not to rely on the medication on a patient's previous dispensing record when supplying medication and ensure the medication supplied is that which is on the prescription presented to authorise the supply;
 - c. Adhere to and follow all Standard Operating Procedures in my workplace as they relate to the dispensing and supply of medications;
2. Undertake the following courses provided by the IOP;
 - a. "Managing Quality in Pharmacy Practice";
 - b. "Consultation Skills in Pharmacy Practice"; and
 - c. "Medication Without Harm"; and
3. Consent to being censured by the Council of the PSI.

The Registrar's Representative submitted that the Registrar's view of the Undertaking and Consent was that it was a fulsome set of undertakings but it was entirely a matter for the Committee having heard the submissions as to whether it considers it appropriate to

conclude the matter now and to deal with it by way of undertakings. The Registrar took a neutral approach in relation to the Undertaking and Consent application.

The Registrar's Representative submitted that the Complainant and [REDACTED] family had been liaised with in respect of the application and [REDACTED] doesn't have any particular view, but [REDACTED] certainly wasn't objecting to the suggestion that undertakings would be offered to the Committee.

The Registrant's Representative submitted that the Registrar's Representative had outlined much of the information that she would have brought to the Committee's attention. The Registrant's Representative submitted that [REDACTED] was offering Undertakings and Consent to Censure for the Committee to consider. The Registrant's Representative made submissions as to [REDACTED] professional work history, current work environment and personal difficulties that have occurred. The Registrant's Representative submitted that when [REDACTED] discovered that [REDACTED] had made an error [REDACTED] immediately offered [REDACTED] apology and sought to make amends and [REDACTED] cooperated fully with the family in requests for any information that was sought. The Registrant's Representative submitted that the error that occurred shouldn't have happened and that's readily acknowledged and [REDACTED] is deeply regretful, particularly as [REDACTED] has a lot of sympathy for the Complainant/Patient who has a chronic physical condition. The Registrant's Representative submitted that [REDACTED] wholeheartedly admits [REDACTED] error, [REDACTED] is not seeking to minimise it or excuse it, it shouldn't have happened, but [REDACTED] asking for the Committee to consider that human error in the context of a 38-year career where [REDACTED] never previously come to the attention of the PSI.

5. Legal Assessor's Advice

The committee having heard the submissions asked the Legal Assessor for advice on the application.

The Legal Assessor indicated that there is no legal controversy involved in the decision the Committee is asked to make and the Act empowers the Committee to exercise the power the subject of [REDACTED] application, but the decision should not be taken lightly. The Legal Assessor provided guidance as to the legal context of the decision to be made with particular emphasis on the provisions of Section 46 of the Act.

The Parties Representatives were expressly offered the opportunity to make submissions on the Legal Assessor's advice and no objection was made to the advice heard.

6. Decision of the Committee

The committee having retired to consider the submissions and the uncontested advice received gave the following decision through the Chair:

‘The Committee would note the exceptional nature of the application in that an application for undertakings and consent to admonishment or censure would usually be made in public and some significant way into an inquiry, that being so the committee accept the context that the Parties have explained which makes the hearing of the application, in this case, appropriate at this time.

The Committee note that we have been given an adequate overview of the Complaint and allegations and the context of the matters giving rise to the Complaint, we also have been given an understanding of the expert evidence taken at its height.

The Committee considers that an undertaking with consent to censure is a good regulatory outcome that:

- Addresses the conduct alleged in the allegations,
- protects the public going forward,
- promotes and maintains public confidence in the pharmacy profession and its regulation, and
- promotes and maintains proper professional standards and conduct for the members of the profession and those who operate pharmacies.

The Committee are prepared to request from ██████ the Undertaking and Consent contained at Page 211 of the Core Book (as recited above in this Report) with an amendment to the beginning of the Paragraph numbered as 2, in that it must read after ‘2 “within 3 months” undertake the following courses provided by the IIOP;’

Unless there is any submissions required the Committee will now ask ██████ if ██████ gives the requested Undertaking and Consent.’

The Parties Representatives made no submissions in reply to the Decision and so the Chair asked ██████ if ██████ was giving the requested Undertaking and Consent. ██████ replied that ██████ was and the Committee accepted the Undertakings and accepted the Consent to censure.

The Chair informed the Parties Representatives that the Registrant's Solicitor is to have the Registrant sign the Undertaking in the amended form and is to furnish that to the PSI's Solicitor within five working days from the date of the sitting.

The Chair informed those present that this concludes the inquiry process and the Committee will provide a report to Council.

7. Report to Council

This Report to Council should be read alongside the Core Book and the detailed Transcript prepared by the Independent Logger.

The Registrant's Representative made an observation in respect of learning for the profession arising from the matters the Committee heard and in that respect the Committee opine that the core learning, from this case, for the pharmacy profession is to ensure and double check that a medicine being dispensed is per the prescriber's script, and not to rely on pharmacy computer systems and or pharmacy held patient medication records, particularly in circumstances where the patient has an long standing relationship with the dispensing pharmacy such that the potential error of dispensing a previously prescribed medicine having a similar therapeutic use must be to the forefront of the pharmacist's mind.

SIGNED:



Mark Kane, Chairperson

DATE:

4th May 2023