Report of the Professional Conduct Committee to the Council of the Pharmaceutical Society of Ireland following an Inquiry held pursuant to Part 6 of the Pharmacy Act 2007.

**** Remote Inquiry held through TrialView ****

Registered Pharmacist:

Mr. Daragh Quinn

Registration Number:

5335

[redacted]

Complaint Reference(s):

445.2018

Date of Inquiry:

2nd and 3rd February 2021

Members of Inquiry Committee:

Mr. Dermott Jewell, Chair, non-pharmacist
Ms. Muireann Ní Shuilleabháin, MPSI, Pharmacist
Mr. Mark Kane, non-pharmacist

Legal Assessor:

Mr. Nicholas Butler, SC

<u>Appearances</u>:

For the Registrar:

Mr. Eoghan O'Sullivan, BL

Instructed by Ms. Zoe Richardson, Fieldfisher Solicitors.

For the Respondent:

Mr. Simon Mills, SC

Instructed by Mr. Patrick O'Connor, P. O'Connor & Sons Solicitors

In Attendance:

Ms. Liz Kielty (PSI)

[redacted] (PSI)

[redacted]

Mr. Daragh Quinn (Registrant)

[redacted](Logger)

Documentation Considered:

Exhibit 1: Core Books 1 and 2

[redacted]

Report Dr. Conor McCrystal

References provided re Mr. Daragh Quinn

Audit Report MR. Noel Stenson.

1. Subject matter of the Complaint

The matter of the Pharmaceutical Society of Ireland (PSI) and the inquiry into allegations of A) poor professional performance and a conviction triable on indictment within the meaning of Section (35)(1)(b) and/or 35(1)(g) of the Pharmacy Act 2007 on the part of Mr. Daragh Quinn, MPSI, [redacted]gistration number 5335 and [redacted]

2. Allegations

Daragh Quinn (Registration No. 5335).

That you, whilst you were a Registered Pharmacist and/or Supervising Pharmacist and/or Superintendent Pharmacist at Quinn's Chemist (Crossmolina) Limited trading as Quinn's Chemist (Crossmolina) Limited hereinafter referred to as (the "Pharmacy");

1. On or about one or more of the dates outlined in column 1 of Appendix A, supplied and/or caused to be supplied and/or permitted to be supplied for [redacted] one or more of the prescription only animal remedies/veterinary medicinal products, as specified in column 2 of Appendix C, otherwise that in accordance with a valid prescription; and/or
2. On or about 26 September 2017, at Ballina District Court, were convicted in the State of one offence of uttering altered documents contrary to Regulation 48(4) and Regulation 69(1) of the European Communities (Animal Remedies) Regulations 2007, as referred to in the Order of Ballina District Court dated 26 September 2017 and contained in Appendix B; and/or
3. Such further or other allegations as may be notified to you in advance of the Inquiry; and/or

AND FURTHER by reason of the allegation at 1 above you are guilty of poor professional performance in that you failed to meet the standards of competence that may be reasonably expected of a Registered Pharmacist; and/or

AND FURTHER by reason of the allegation at 2 above you have been convicted of an offence consisting of an act or omissions that if done or made in the State would constitute an offence triable on indictment.

3. Preliminary Applications

(a): Application By Mr. Mills: That the Inquiry Proceed in Private.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

The Inquiry reconvened and the Chairman advised that the Committee, having considered the application and the detail submitted to it, [redacted] and therefore had determined that the inquiry would proceed in private, but, for this reason alone.

(b). Applications By Mr. O'Sullivan:

Mr. O'Sullivan advised the Committee that he wished to amend the Notices of Inquiry in two respects, both of which related to the second allegation, grounded upon the conviction

1: In relation to the first application he referred the Committee to Section 35 of the Act and subsection (1)(g) which deals with the grounds of complaint against registered pharmacists. He explained that part (g) provides for a ground of complaint where there is "*a conviction in the State for an offence triable on indictment or a conviction outside the State for an offence consisting of an act or omission that, if done or made in the State, would constitute an offence triable on indictment.*"

The notice regarding the conviction in this case arose from proceedings in the State before the district court in Ballina. Mr. O'Sullivan clarified that there was no issue with this allegation. However, there was a typographical error that was repeated and for which he was making the application for amendment.

This necessitated the removal of minor wording anomalies within the notices to ensure accurate reflection of the fact alleged and with the correct ground of complaint as per Section 35(1)(g) of the Act.

There were no objections and verbal agreement was confirmed by the Committee to the amendments.

4. Evidence and Submissions

Mr. Mills sought to address the Committee in circumstances where he had taken instructions from Mr. Quinn and where admissions, previously discussed at length with Mr' O'Sullivan, could be put forward.

Allegation1: Mr Quinn proposed admitting, as a matter of fact, a sample of those allegations relating to the dispensing of medications that were prescribed by two veterinary practitioners with the factual admissions being made in respect of sample charges or sample prescriptions from each of those veterinary practitioners.

Mr. Mills outlined that,:

(a) arising from prescriptions written by the veterinary surgeon Kevin McGuckin, Mr Quinn accepted, as a matter of fact, No's: 1, 2, 3, 4, 5 and 17 (from Appendix A and reflecting 6 of 17 Proofs for Supplies dispensed);

(b) arising from a prescription written by veterinary surgeon Aideen Rigney, Mr. Quinn accepted, as a matter of fact, No's: 8, 9, 10 and 11, all of which were dispensed on the

10th of February 2015 (from Appendix A and reflecting a further 4 of 17 Proofs for Supplies dispensed);

(c) taken together, that those 10 episodes of dispensing amounted to poor professional performance; and

(d) with the observation, that it was the view of the Registrar's expert that the poor professional performance exemplified by the dispensing, was at the lower end of the scale.

(e) with regard to Allegation 2 the fact of the conviction was admitted.

Mr. Mills advised that Mr. Quinn had elected to make the admissions in the interest of bringing the process of Inquiry to a conclusion and as a demonstration of his insight to the criticisms to be offered by the Registrars expert. He went on to advise the Committee that Mr. Quinn had also engaged the services of an expert whose report had, in regard to all allegations, concurred with those of Dr. McCrystal and considered them to be at the lower end of the scale.

In conclusion, Mr. Mills explained how, as an agreed approach with Mr. O'Sullivan, the Committee would hear from Mr. Louis Riordan, Inspector with the Department of Agriculture on behalf of the complainant and from Dr. McCrystal the Registrar's expert.
Mr. O'Sullivan advised the Committee that the admissions were acceptable to the Registrar and that the Registrar would not be leading evidence in relation to the 7 alleged supplies referred to in Appendix A that were not the subject of admissions.

Mr. O'Sullivan opened with detail of the now amended Notices and read the allegations into the record.

Mr. Quinn was, at the relevant time, both the Superintendent and the Supervising Pharmacist at Quinn's Chemist in Crossmolina, County Mayo.
The complaint, made by the Department of Agriculture arose from an inspection of Mr. Quinn's pharmacy by Department officials as a part of an investigation into compliance with the Animal Remedies Regulations.

These European Regulations were incorporated into Irish legislation in 2007 and their primary focus is toward regulating the administration of veterinary drugs to food producing animals and their ultimate aim is the protection of the food chain.

The regulations govern:

- the manufacturers of animal remedies;
- the activities of various different persons who have any involvement, directly or indirectly, with medicines being given to food producing animals;
- they govern suppliers, importers, distributors;

- they also govern vets and pharmacists and ultimately;
- the farmers themselves who own animals and who intend to supply or administer, as required, animal remedies to those animals.

Mr. O'Sullivan outlined how, so far as the Committee was concerned, the relevant rules are those that govern pharmacists who sell or supply prescription only animal remedies to farmers. Each of the animal remedies referred to in appendix A and now, specifically, captured by the 10 admissions, was an animal remedy that is designated prescription only which means that a pharmacist can only sell or supply that remedy on foot of a prescription from a vet.

Referencing the Regulation, Mr. O'Sullivan noted that Section 28.4 provides that:

"A person shall not sell or supply an animal remedy designated prescription only unless (a) he or she is a pharmacist and he or she has a veterinary prescription relating to the animal remedy in his or her possession.".

In addition, Section 43.7 provides that: *"A person:*

- (a) who dispenses a veterinary prescription in part, shall immediately record on the prescription and on the copy, in a conspicuous, legible and indelible manner, the quantity of an animal remedy sold or supplied by him or her on foot of the veterinary prescription and the date of each such sale or supply and shall attest to this by means of his or her signature and shall retain a copy (which could be a photocopy)

- (b) who has completed dispensing a veterinary prescription shall at that time record on the prescription and on the copy thereof in a conspicuous, legible and indelible manner, the word 'dispensed' and shall attest to this by means of his or her signature and the date, (ii) return a copy of the veterinary prescription to the person who presented it, and (iii) retain, at his or her premises, the original veterinary prescription for five years."

Mr. O'Sullivan detailed how Mr. Quinn fell foul of the requirements of the Regulations in respect of the 10 different supplies referred to in Allegation 1.

- On occasions, he supplied remedies using prescriptions that were spent, meaning the full quantity of the remedy prescribed had already been supplied and so the prescription had been exhausted.
- On other occasions he supplied more than the quantity authorised on the face of the prescription, and

- On further occasion he supplied, in circumstances where the prescription had expired. These, in broad terms, were the issues captured in Allegation 1 and for which Mr. Louis Reardon, an official from the Department of Agriculture, would provide evidence.

Briefly, in relation to the other allegation arising from the conviction, Mr. O'Sullivan outlined that the conviction was for uttering altered documents - which is a criminal offence provided for in the Animal Remedies Regulations.

The conviction arose when Mr Riordan, the Department of Agriculture official, queried a number of supplies made by Mr Quinn.

In respect of two of those supplies Mr Quinn produced reprinted computer labels that purported to show that those supplies had been made on foot of particular prescriptions.
However, Mr Riordan had the original bottles of the medicines and he also had various other underlying documents from the pharmacy and he was able to discern that those two supplies had not in fact been made on foot of the prescriptions that were referred to in the reprinted computer labels that Mr Quinn produced for him.

The reprinted computer labels did not reflect the correct prescriptions. In fact they referred to prescriptions that had not justified those supplies.

On that basis Mr Quinn was prosecuted for uttering two altered documents, they being two adhesive labels, and he entered a guilty plea to the allegations, was convicted in the district court and received a fine of €750 for that conviction.

NOTE:
At this stage of proceedings it was intended to hear evidence from Mr. Louis Reardon for the complainant and that to be followed by evidence of Dr. Conor McCrystal the expert for the Registrar.

The transcript reflects how, while facilitating access of Mr. Reardon to the Inquiry, the Committee were informed by Mr. Mills that, in agreement with Mr. O'Sullivan, Mr. Riordan would be restricted to providing limited factual evidence in relation to the admitted matters only.
The proceedings had been interrupted on numerous occasions across the day due to connectivity failures. Naturally, delays had occurred. This was now reflected to the point where it was realised that technical assistance to Mr. Riordan would be necessitated which would require some length of time.

Mr. Mills indicated that he had made a proposal to the Registrar, which he was now pressing upon the Committee and on Mr O'Sullivan to accept, which was to read a redacted version of Mr Riordan's witness statement into evidence and then proceed to call Dr. McCrystal.

Discussion followed and It became apparent to the Committee that the inquiry, set to be heard across a period of three days, was now, following applications approved and admissions made, certainly in Mr. Mills and the registrants opinion, considered to be possible to fast track to completion at what was now late afternoon.

Mr. O'Sullivan confirmed the conversation but added that it was the Registrars view and clear preference that Mr. Riordan would give evidence to the Committee as the person from the Department and the person who was involved in the inspection in the first instance. This was also the preference of the Committee.

Following further and lengthy discussion it was decided that Dr. McCrystal would be called to give evidence following which the Inquiry would adjourn. Technical matters would be managed to facilitate the reconvening of the Inquiry on the following morning commencing with the appearance of Mr. Riordan to provide his evidence.

Mr. O'Sullivan, following affirmation, introduced Dr. Conor McCrystal.

Dr. McCrystal had prepared a report that was not provided in the Core Book but was now being (uploaded) "*made a public document within TrialView"*.

Dr. McCrystal outlined that the matter of concern was the supply of prescription only medicines (POM) for use under the prescription of a veterinary practitioner.
He referred to the provisions of how a pharmacist can supply POM only *"on foot of a prescription supplied by a veterinary practitioner."*

He advised that information in the classification of any veterinary product can be obtained from the veterinary medicines listing on the HPRA website and that was where typically pharmacists would get their information on in veterinary medicine.

In that advisory section it was highlighted that under the legislation a prescription can be for no longer than 12 months. However, the prescribing veterinarian must specify the maximum life of a prescription in each case.

In addition, legislation provides that a veterinary prescription shall bear a serial number and contain a declaration that the prescription is granted in respect of an animal under the care of the prescribing veterinary practitioner.

Regarding information on the emergency supply of certain animal remedies by a pharmacist Dr. McCrystal referred to Schedule 44 of the legislation where it provides that "*The registered veterinary practitioner undertakes to furnish a veterinary prescription within 72 hours.*" And, regarding the keeping of records, "*A person carrying on a retail pharmacy business shall keep at the premises where such business is conducted, such records as are prescribed in Regulation 34 of the Animal Remedies Regulations which shall be readily available for inspection.*"

MR. O'Sullivan brought Dr. McCrystal through a number of the prescription only medicines and how they had been supplied by Mr. Quinn. In specific reference to the allegations and Mr. Quinn's admission he requested Dr. McCrystal to explain his view upon the failings captured by the 10 supplies admitted and why it was his opinion that they amounted to poor professional performance.

Dr. McCrystal reflected how it was incumbent upon any pharmacist as a professional person to follow the regulations that are in place. These medications were all prescription only medications and they should not have been prescribed over and above the amounts that had been prescribed on the initial prescriptions.

Supplying medication in this way is a breach of the regulations and any pharmacist should have been aware of that and certainly a competent pharmacist would have known that medications were being dispensed outside of the quantities and the dates that were on these prescriptions.
There were a number of breaches of regulations and it was his opinion that this was poor professional performance on behalf of the pharmacist.

Regarding the matter of seriousness, Dr. McCrystal explained that the regulations are in place to govern the supply of veterinary medicines.
He considered that, Yes, they were of sufficient seriousness to warrant breaches of poor professional performance.

He went further to advise that many of the remedies supplied were antibiotics or corticosteroids. It was his opinion that there is oversupply of antibiotics into the veterinary market in Ireland. So, supply of medication in this way, without the appropriate prescription, was a serious matter.

Mr. O'Sullivan asked where on the scale of wrongdoing, did Dr. McCrystal put the poor professional performance on the part of Mr Quinn in this matter.

Dr. McCrystal reflected how, in his report, he had referred to the existence of *"difficulties when pharmacists supply medication on foot of requests from farmers. Often it's very difficult to get prescriptions. The prescription -- the regulations say the prescription must be in the pharmacy before the medication is supplied. Often it's very difficult to get those prescriptions in the pharmacy so it is hard to be compliant with the regulations as they stand. However, the regulations are in place and in this case there were clear breaches of the regulations".*

Dr. McCrystal concluded by advising that – "*I think for the reasons I have outlined in my report I would put it at the lower end of poor professional performance".*

Mr. Mills, in cross-examination, raised the matter of insight and asked Dr. McCrystal if he considered that Mr. Quinn, through his previously pleading guilty to the criminal charges and today acknowledging that, taken together, a number of instances of dispensing practice amounted to poor professional performance showed insight.

Mr. Mills also referred to steps taken by Mr. Quinn to distance his practice from dispensing of injectable animal medications to ensure no possibility for a reoccurrence.
Dr. McCrystal responded that this was certainly remediation. He added that it also served to acknowledge that there had been issues previously.

Mr. Mills returned to the reference regarding the requirement for any prescription dispensed in an emergency to be at the premises within 72 hours of that dispensing and Dr. McCrystal's report in which he referred to this being challenging to comply with.
Dr.McCrystal advised that he would stand over his report but would add now that bad practice is bad practice, even if it is common practice.

In the course of his cross-examination Mr. Mills referred, for the first time, to a previous report provided by Dr. McCrystal. This led to a significant and lengthy legal debate and was followed by a recess for the Committee to discuss its preferred means for continuing the Inquiry.

The Inquiry resumed and, following further lengthy debate, it was decided that a copy of Dr. McCrystal's second report would be made available to the Committee to review overnight; that a copy of the transcript would be made available to the Committee by 9 am the following morning; that the Committee would convene at 9 am in private session to review

and consider the transcript; that Dr. McCrystal would be available for further possible questions/clarifications and that the Inquiry would reconvene at 10:30 am that morning.

The Inquiry reconvened for the second day.

The Chairman advised the Inquiry that the Committee had the opportunity to read and consult the expert report overnight.

This was the first opportunity for the Committee to do so. Having done so and noted and listened carefully to the references put forward regarding Dr. McCrystal's first report, it was considered that the best way to progress is not to seek that report at this stage of the process.

The Committee, following its early morning meeting did have questions arising from Dr. McCrystal's report and the legal assessor has agreed to put these forward on the Committee's behalf.

Mr. Butler commended by outlining to Dr. McCrystal that he was putting questions in order to assist the Committee in understanding his evidence and deciding on issues that it would have to address on completion of the Inquiry.

Mr. Butler asked Dr. McCrystal if the Committee was correct in its assumption that it remained his view that the wrongdoing referred to in allegation 2 was at the lower end of the scale. As this was confirmed by Dr. McCrystal he was asked to assist the Committee by explaining the rationale for that view and what were the features of the case that led him to that view.

Dr. McCrystal explained that in considering Allegation 1, he was considering multiple examples of supply of prescription only veterinary medicines in the absence of the appropriate prescriptions and documentation. In the majority of cases the medication, veterinary medication had been supplied to the farmers previously.

There were cases of ongoing supply against prescriptions that had expired, were beyond expiry date and in fact the full amount of the medication that was on the prescription had been exceeded.

" I suppose I'm quite well aware that in community pharmacy we're faced with a situation in many cases where veterinary surgeons prescribe medication

and they dispense prescription only medication. It can be quite difficult for pharmacists to comply with the legislation and have all necessary prescriptions in the pharmacy prior to dispensing medication.

There is a bit of leeway given in the legislation which says that the prescription can be rung into the pharmacy, the prescription must then be supplied within 72 hours. At that stage medication can leave the pharmacy. So, there is a bit of leeway built in.
It can be difficult to get all this documentation in order.

So, I fully understand the issues that are involved with supplying the veterinary pharmacy business.

For that reason, you know, I feel that the behaviour displayed, you know, it's a matter of competence and I consider it to be poor professional performance. Allegation 2 is a conviction in the court of an indictable offence so I viewed that as a conduct matter. In my second report I wasn't asked to consider allegation 2 so I simply based it upon allegation 1. Now, you've asked me again allegation 2, do I consider it to be at the lower end of conduct, if you want to call it that, and I do consider it to be at the lower end, at the lower scale."

Specifically, in regard to Allegation 2, Dr. McCrystal explained, by way of background that:

" what effectively happened was that the pharmacist supplied prescription only medication to a third party and didn't have the prescription in the dispensary at the time of dispensing of the medication.

So effectively the pharmacist repeated a previous supply of his patient medication record. Labels that were produced on foot of that contained the serial number of the previous prescription.

So medication was supplied to a third party but it didn't have the correct serial number on it. At a later date the prescription that was used to back up such supply was then received in the pharmacy. It then had a different serial number on it. So, at some stage then the PMR was changed to reflect the serial number on the new prescription that had arrived in the dispensary.

Now, in many cases these prescriptions had arrived outside of the 72-hour period, so clearly there was a breach of regulations. That's my understanding of how that conviction came about or the explanation for it and I view it at the lower levels of conduct".

Mr. Butler brought Dr. McCrystal to the European Communities Animal Regulations 2007. He reflected how Allegation 2 referred to the offence of uttering altered documents contrary to Regulations 48 (3) and (4) and 69.(1) of that Act.

Under the heading – Forgery - Section 48 (4) provides: *A person shall not utter a forged document, a falsely endorsed document or an altered document.* And
Section 48 (3) provides that: *A person shall not, with intent to deceive, alter……which document if so altered is, in this Regulation, referred to as an 'altered document'.*

Dr. McCrystal confirmed that this chacterisation of Mr. Quinn's conduct was something he took into consideration in arriving at his view that the wrongdoing was at the lower end of the scale. He felt that considering the altering of labels by Mr. Quinn to be harshly assessed as forgery.

Mr. Butler clarified that Mr. Quinn was not charged with forgery but with uttering a document that, as was already outlined, meant is was one uttered with intent to deceive. Mr. Butler made it clear that he was not challenging but, for the understanding of the Committee, was simply trying to clarify if it was the case that, for the purpose of arriving at his view, that not only did Dr. McCrystal make no comment on whether there was intent to deceive but that he did not in fact consider whether there was intent to deceive. Dr. McCrystal confirmed that that was correct.

Mr. Mills, In re-cross examination asked Dr. McCrystal if he considered that the Director of Public Prosecutions decision not to try this matter on indictment and opt instead for the district court supported his view that the matter featured at the lower end of the scale? Dr. McCrystal believed that it clearly would.

Mr. Mills added that the legislation creates a scenario in which, if the matter that gave rise to the conviction is of sufficient weight, it can be the subject of a complaint, it can be the subject of an inquiry and it could be a subject of a finding against a registered pharmacist. It was important to note that there was no allegation in relation to those altered labels.

Mr. Butler in addressing the Committee and all present advised that the Committee should take into consideration everything that had been said. The questions put on behalf of the Committee were a proper exercise of the powers of the Committee.

The Inquiry proceeded with the sworn evidence of Mr. Louis Riordan.

Mr. O'Sullivan began by advising Mr. Riordan that admissions had been made and he would therefore be leading Mr. Riordan through his evidence and would only be focussing on certain parts of the evidence that he would otherwise have been giving.

Mr. Riordan was introduced as a registered veterinary surgeon and a veterinary inspector with the Department of Agriculture, Food and the Marine. He is also an authorised Officer within the meaning of the European Communities Animal Remedies No. 2 Regulations.

He had carried out an inspection at the premises of [redacted], a farm known as [redacted], on the 23rd of September 2015. Certain remedies and prescriptions were seized and, as anomalies were noted in those items, Mr. Riordan and a colleague visited Quinn's Chemist in Crossmolina, Co. Mayo on the 29th of September 2015 as that was the pharmacy where the remedies in question had been supplied.

Some detail was provided of the remedies under question. Some were referred to as broad-spectrum long acting antibiotics to treat various conditions in cattle and sheep.

Others were specifically referenced and explained as to their use by Mr. Riordan and included:

- Rapidexon, a corticosteroid. Described as a very powerful anti-inflammatory medication that can have significant side effects with it.
- Baytril - one of the family of the fluoroquinolones. A very powerful antibiotic generally used in the treatment of respiratory conditions. That would be regarded as one of the critically important antibiotics and it should not be used as a front line treatment. It is recommended that it would only be used in situations where other medications have failed or you have laboratory sensitivity or results indicating that nothing else will do.

Mr. Riordan explained that Baytril and Marbocyl were the subject of a proposal at European Commission level that at one stage were being considered for withdrawal from agricultural use because of fears of anti-microbial resistance. The equivalent drugs are very important drugs in the human medical sphere.

- Nuflor - a very powerful antibiotic. It contains one of the amphenicols, i.e. thiamphenicol and would be used in the treatment of meningitis and respiratory conditions in cattle.

Again, Mr. Riordan explained that this should not be used as a front line therapy. There would be concerns about inappropriate use and potential anti-microbial resistance*.

Mr. O'Sullivan referred Mr. Riordan to the two labels that ultimately were the subject of a conviction at Ballina District Court.

The Committee were advised of the following detail:

Mr Riordan had noted certain anomalies in the paperwork gathered and the bottles of animal remedies he had gathered at [redacted].

He had requested certain documentation from Mr Quinn and what was provided were reprinted labels that had to be kept by the pharmacist. They contained information in relation to animal remedies supplied, including the prescription relied upon to dispense.
Mr. Riordan clarified that Mr. Quinn was required to keep a record correlating his supply of prescription only medicines to a prescription number. Mr Quinn advised Mr. Riordan that he chose to keep that in the format of the labels on the computer. He was therefore requested to reprint the labels.

The labels provided included one in respect of a supply of Baytril and the other in respect of a supply of Marbocyl.

Mr. Riordan identified that the prescription numbers on those two reprinted labels that were given did not match the prescription numbers on the original labels that were affixed to the two bottles and did not correlate with what was actually stated on the bottle.
It was in respect of two of those labels that Mr Quinn was convicted on foot of a guilty plea in Ballina District Court of uttering altered documents to the Department.

As there were no further questions for Mr. Riordan, Mr. O'Sullivan advised that this concluded the Registrar's evidence.

Mr. Mills advised that he did not propose leading any evidence.
There were 2 reports from Noel Stenson. There was agreement with Mr. O'Sullivan that, as was the case with the first report from Dr. McCrystal, one of the reports would not to be handed in.

The second report was relating to the practise and it was agreed to be made available to the Committee in the course of dealing with mitigation. There would also be 5 supportive references that had been agreed with Mr. O'Sullivan and so the individual authors would not be called.

It was confirmed that all of the documentation referred to by Mr. Mills would be uploaded to TrialView. As Mr. O'Sullivan confirmed that he would not be referencing, in any way, either of the reports or other documents, it was agreed that he would make his closing submission and the Inquiry could adjourn for lunch.

During this adjournment the Committee could reference the documentation.

In addition, Mr. Mills would be reading certain of the documentation into the record in mitigation in the course of his closing.

Mr. O'Sullivan, in his closing remarks, referred the Committee to the fact that Mr. Quinn had accepted both allegations and that the failing captured in allegation 1 amounted to poor professional performance.
He went on to say that while sanction was ultimately a matter for the Council it was the Committee that, having heard the evidence, was, certainly in the first instance, best placed to form a view on what the appropriate sanction would be.

This was a contravention of the Animal Remedies Regulations where, 10 separate supplies were made, over the course of an eight-month period, to one particular customer of prescription only animal remedies.
These were, broadly, antibiotics and corticosteroids provided without a valid prescription because the script he relied upon was either already exhausted, it was expired or a combination of having been exhausted and expired.

It was Dr. McCrystal's evidence, as outlined, and opinion that allegation 1 amounts to poor professional performance.

In addressing the issue of seriousness there had been an error in his letter of instruction, with the result that he had ultimately dealt with it in his first report. The Registrar then asked Dr. McCrystal to prepare a second report in which he did not address seriousness.
Mr. O'Sullivan reflected that it was very difficult for an expert to form a view on the seriousness of a conviction because the act does not give any guidance to that expert or indeed to anybody involved as to when a conviction is significant or not.

However, as the matter had come to issue and Dr. McCrystal had advised his opinion that the wrongdoing, captured by the conviction, fell at the lower end of the scale, then the Committee should be conscious of his view in that regard. Mr. O'Sullivan went on to say that he would suggest that Dr. McCrystal's view was entirely correct in terms of where the conviction falls on the scale and it was his suggestion that the Committee should not depart from that in all of the circumstances.

This was, in legal terminology, a dishonesty offence. It was uttering a false comment or an altered document and occurred in the course of the practice of Mr. Quinn's profession and in the context of an inspection under the Animal Remedies Regulations, the importance of which were outlined to the Committee.

The matter of penalty was significant. As already referenced by Mr. Mill's, Mr. O'Sullivan referred to the decision of the Department not to seek to have the matter prosecuted

through the Circuit Court but chose the District Court. The fact that what could have resulted in a fine of €5,000 and a period of imprisonment resulted, following a guilty plea and evidence in mitigation, in a fine of €750. This was a factor that put what was a serious matter at the lower end of the scale of seriousness.

Mr. O'Sullivan closed by advising that the Committee had to recommend a sanction, that was proportionate to the wrongdoing and that takes account of all of the factors, including the mitigating factors.

The Committee had to be as lenient as reasonably possible. While not ignoring public protection, the deterrent effect or the message to be sent to the public, the Committee must bear other factors in mind, including the fact that Mr. Quinn, like all pharmacists, has studied hard, earns his livelihood from this profession and that people do err and, sometimes, fall foul of regulations.

Mr. Mills also focussed upon evidence introduced throughout the Inquiry regarding the consideration of actions being at the lower end of the scale of seriousness and that any sanction should follow that lead.

He suggested that, in consideration of mitigation, the Committee should note that, from the beginning Mr. Quinn has "*held his hands up".* This was exemplified by his admissions at the commencement of this Inquiry and his guilty plea before the Court.
It was Mr. Mill's submission that these reflected both insight and contrition on the part of Mr. Quinn.

At a later point, Mr. O'Sullivan, on this matter of suggested early admissions, sought to clarify that, in regard to the admissions made today, the Notice of Inquiry was dated the 29th of October 2020, which was served on the 3rd of November 2020.

In consideration of seriousness Mr. Mill's submission was that it was at the lower end. He suggested that this was the view of the prosecuting authorities in the district court, that it was the view of the judge who imposed the penalty that it was that of the Registrar's expert, who, having previously combined both allegation 2 and allegation 1, said that, taken together, they were at the lower end.

It was now 6 years since the dispensing episodes. Since then Mr. Quinn has withdrawn from the practice that gave rise to the complaint. There is no longer business transacted in injectable animal remedies. In addition an audit report, carried out by Mr. Noel Stenson, gave Mr. Quinn and the Pharmacy an up to date, clear and clean bill of health. It was clarified that Mr. Stenson is a known expert in pharmacy medicine and practice.

It was also clarified that the most recent PSI audit was carried out in September 2014.
Mr. Quinn had misinterpreted regulations by incorrectly believing that the Regulations entitled him to make repeat dispensing during the lifetime of a prescription for animal remedies.

Finally, Mr. Mills read a number of personal references into the record. All were supportive and reflected on the good character and ethics of Mr. Quinn, his family and practice.
Many references were made to his high standing as an expert and as an authority in the area of veterinary medicine. He had written articles for the IPU and worked to produce an IPU Checklist for supply of veterinary medicines. He represents the IPU on the Department of Agriculture, Food and the Marine Anti-parasitic Resistance Stakeholder Group.

In closing Mr. Mills referred to these references and the Stenson Report in mitigation toward what, in his opinion, should be a sanction of admonishment.

Mr. Butler provided advice to the Committee in the presence of all parties.

Having noted the considerable level of agreement between the parties in relation to matters of sanction, he drew attention to the evidence it had heard and the legal authorities and the principles which they establish which were relevant to the Committee's recommendation as to sanction, in particular:

- Sending the appropriate message as to the seriousness of the wrongdoing to the pharmacist (as a deterrent) and to the wider profession.
- The paramount consideration of public protection, including the need to maintain public trust and confidence in the profession and the way in which it is regulated.
- The obligation to afford as much leniency as possible to the pharmacist in all the circumstances.
- The significance of dishonesty in assessing wrongdoing and what may be necessary to protect public confidence.
- Proportionality, weighing the wrongdoing and all relevant factors appropriately.

He also drew the Committee's attention to the PSI's Sanction Guidance document.

This is a significant document, which, in its latest iteration, sets out useful, reliable guidance. He referred specifically to the section headed Mitigating and Aggravating Factors and Section 33(a) Dishonesty. Paragraph 34 states:

> *"Dishonesty on the part of a Registrant is particularly serious as it undermines trust in the profession, even where no patient harm has occurred. Registrants have a duty of*

candour to their regulator and to the wider public. There are some acts, which, while not presenting a direct risk to the public, are so serious that they undermine, or have the potential to undermine, confidence in the profession as a whole. Dishonesty is of particular concern where it is premeditated, persistent and/or attempts are made to cover up errors or misconduct. This is likely to result in erasure or refusal of registration. Cases involving dishonesty can be complicated. Therefore, the Council will consider the context in which the dishonesty took place and it will assess its impact on the public's trust in the profession and any public safety implications. "

Paragraph 35, states:

"In recent case law the High Court has held in professional disciplinary cases that where dishonesty is found to be proven, no matter how strong the mitigation, strike off from the register will almost inevitably follow. However, this is subject to the requirement on the sanctioning body to be proportionate in imposing the sanction."

Importantly, Mr. Butler advised his opinion that there was no basis on which dishonesty of a premeditated, persistent, or cover-up errors or misconduct had been the subject of any evidence in this Inquiry.

Following legal discussion the Chair thanked all in attendance. He advised that the Committee would sit on the following day to consider its report, which would issue in due course.

He closed the Inquiry.

4. Findings of the Committee

Daragh Quinn (Registration No. 5335).

That you, whilst you were a Registered Pharmacist and/or Supervising Pharmacist and/or Superintendent Pharmacist at Quinn's Chemist (Crossmolina) Limited trading as Quinn's Chemist (Crossmolina) Limited hereinafter referred to as (the "Pharmacy");

Allegation 1 - On or about one or more of the dates outlined in column 1 of Appendix A, supplied and/or caused to be supplied and/or permitted to be supplied for [redacted] one or more of the prescription only animal remedies/veterinary medicinal products, as specified in column 2 of Appendix C, otherwise that in accordance with a valid prescription:

- was found to be substantiated, by reason of having been admitted by Mr. Quinn as to fact and to amount to poor professional performance.

Allegation 2 - On or about 26 September 2017, at Ballina District Court, were convicted in the State of one offence of uttering altered documents contrary to Regulation 48(4) and Regulation 69(1) of the European Communities (Animal Remedies) Regulations 2007, as referred to in the Order of Ballina District Court dated 26 September 2017 and contained in Appendix B

- was found to be substantiated, by reason of Mr. Quinn having admitted that this conviction had been handed down.

5. Recommendations as to Sanction

The Committee recommends that the Council impose the following sanctions on Mr Quinn:

1: That, pursuant to Section 48(1)b(i) of the Act, Mr Quinn be censured for his poor professional performance and his conviction in the District Court of an indictable offence

and

2: That, pursuant to Section 48(1)(b)(ii) of the Act, the follwing conditions be attached to Mr Quinn's registration:

1. That Mr Quinn shall engage a suitably qualified senior and experienced pharmacist, to be agreed in advance with the Registrar of the PSI, to carry out two audits of his practice. The audits to be conducted over a two year period to be determined by Council.
2. Mr Quinn, Registrant, shall authorise the said auditor to report the annual audited results to the Council and do everything necessary to facilitate the furnishing of the said report following each audit upon a date specified by Council.
3. Mr Quinn shall discharge all costs associated with the implementation of these conditions.

(In this regard the Committee notes that Noel Stenson has recently prepared an audit report which was furnished to the Committee. Subject to the views of Council, Mr. Stenson could be considered to be such a qualified and experienced auditor, having regard to his knowledge of the practice).

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Reasons for the Committee's recommendation:

In the Committee's view, this is the most lenient sanction that can be imposed. It is fair and proportionate and is consistent with the principles of sanctioning set out above in the parties submissions and within the PSI's own sanctions guidance.

In terms of the seriousness of the poor professional performance and conviction, the Committee took as its starting point the assessment of the expert witness, with which the Registrar agreed, that these were at the lower end of the spectrum of seriousness. The Committee approached its recommendation on the basis that, having regard to Mr Quinn's admissions, he was entitled, as a matter of fairness, to be sanctioned on the basis of these assessments. If the Committee had made its own assessement as a basis for a sanction recommendation it is likely that, allowing for all mitigating features of the case, and having particular regard for the disturbing dishonesty elements of the wrongdoing, the public safety issues and the upholding of the reputation of the profession and public's confidence in same, it would have been placed at a higher end of the spectrum, in line with the express statements in the PSI's own sansctions guidance, with a correspondingly higher sanction or sanctions.

The following aggravating and mitigating features of the case struck the Committee as particularly relevant:

- The criminal conviction for uttering falsified documents with intent to deceive. The authorities and the guidance document, referred to in submissions and the independent advice, refer to a serious view being taken of wrongdoing involving dishonesty.

- Mr. O'Sullivan, had advised the Committee, in outlining the relevant provisions of the Animal Remedy Regulations that *'they come from European law that were passed primarily with a view to regulating the administration of veterinary drugs to food producing animals and their ultimate aim is to protect the food chain'. T*he Committee was particularly struck by this in evidence of the Departmental veterinary inspector, in relation to the significant risk to public health and safety through posed by the conduct complained of and especially in the context of Anti Microbial Resistance (AMR). These features raise important public protection issues, which in turn, impose heightened professional responsibilities and obligations on pharmacists.

- A number of mitigating features were advanced which had little or limited evidence in support. For example, at one point the Committee was advised that Mr. Quinn was not the only person at fault. This came from a report which the Committee did not see. The Committee cannot therefore assess the weight to

be given to this point or take it as a mitigating factor for what was persistent wrongful dispensing over a lengthy period.

- Many of the personal and professional references submitted on behalf of Mr Quinn describe him as a pharmacist in a position of leadership with considerable expertise in this area of pharmacy. This is of concern to the Committee as it is seriously at odds with the suggestion that, while acting in the role of Supervisory and Superintendent Pharmacist, with statutory responsibilities under the Act, he had misinterpreted the Regulations and believed he was able to dispense the supplies in the number and manner which led to a conviction and findings of poor professional performance. It is also a function of sanction to send a message as to the robustness of the regulation process to the profession and given the nature of the references they could equally speak to Mr. Quinn needing to attract a higher sanction to uphold the profession's understanding of the regulatory framework and that the poor professional performance and conviction in this case are not acceptable or easily excused.

- The expert evidence referred to difficulties and challenges in complying with the legislation. The expert witness also described the language of the Act creating the offence to which Mr Quinn pleaded guilty as harsh when applied to his actions. These views formed part of the reasons for his view that the wrongdoing was "very much at the lower end". The Committee did not, with respect, easily share this benign view of the wrongdoings involved here, either in terms of the poor professional performance or the criminal offence. Nevertheless, for the reasons identified, this expert view was taken by the Committee as the basis of its sanctioning recommendation. Whether or not the Council adopts the same approach, the Committee believes it would be timely, in the context of future cases, to examine the way in which the seriousness of wrongdoing is evidenced by the Registrar and decided by the Committee in the context of sanction recommendations and decisions.

- the Committee believes that insight can be a strong mitigating factor. It accepts that the guilty plea in the District Court, the decision to deal with the matter in that Court and the fine imposed, the admissions made at an early stage in this process and the fact that this was Mr Quinn's first time facing an Inquiry, were all genuine mitigating features. Mr Quinn, as he was perfectly entitled to do, chose not to give evidence. This left the Committee with only limited understanding of Mr Quinn's own perception and understanding of his wrongdoing. In these circumstances, it would not adequately assure public protection without a degree of scrutiny of his professional work and practice.

- [redacted]

- The references and testimonials showed how Mr. Quinn is held in high esteem by a number of colleagues as well as others outside of the profession.

- Mr Stenson's report, showing that, as of this time, the practice is being conducted appropriately and with nothing giving rise to concern is of importance and contributes to the consideration of mitigation, insight and remediation.

- All conditions required in SOP's have been met. Mr Quinn's Pharmacy has ceased the dispensing of Animal Remedy Injectables.

ENDS.

Dermott Jewell

Signed _____

Dermott Jewell

Dated 24th March 2021