

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 ****

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Registered Pharmacy:

Quinn's Chemist Crossmolina Limited

[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

Appearances:

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)

████████████████████ (PSI)

████████████████████)

Mr. Daragh Quinn (Registrant)

████████████████████ (Logger)

Documentation Considered:

Exhibit 1: Core Books 1 and 2

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Report Dr. Conor McCrystal

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, registration number 5335 and B) Quinn's (Chemist) Crossmolina Limited trading as Quinn's Chemist, Crossmolina, registration number 5854, within the meaning of Section 36(1)(b) by the Professional Conduct Committee under Part 6 of the Act.

2. Allegation

Quinn's Chemist (Crossmolina) Limited trading as Quinn's Chemist (Crossmolina) Limited (Registration No. 5854).

A registered retail pharmacy business:

1. On or about 26 September 2017 Mr. Daragh Quinn, being an employee of Quinn's Chemist (Crossmolina) Limited which is the Pharmacy Owner, was convicted in the State of an offence of uttering altered documents contrary to Regulation 48(4) and Regulation 69(1) of the European Communities (Animal Remedies) (No. 2) Regulations 2007 and contained at Appendix A; and/or

2. On or about 26 September 2017, Quinn's Chemist (Crossmolina) Limited, being the Pharmacy Owner, was convicted in the State of an 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. On or about one or more of the dates outlined in column 1 of appendix C, Quinn's Chemist (Crossmolina) Limited, being the Pharmacy Owner, supplied and/or caused to be supplied and/or permitted to be supplied to [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
4. 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;

Mr. Quinn, being an employee of the Pharmacy Owner, has been convicted of an offence, namely a breach of the European Communities (Animal Remedies) (No.2) Regulations 2007, such that were Mr. Quinn to apply for registration as a pharmacist, the Council would be likely to refuse to register him; and/or

AND FURTHER by reason of the allegation at 2 above;

Quinn's Chemist (Crossmolina) Limited, being the Pharmacy Owner, has been convicted of an offence, namely a breach of the European Communities (Animal Remedies) (No.2) Regulations 2007, such that were Quinn's Chemist (Crossmolina) Limited to apply for registration as a pharmacist, the Council would be likely to refuse to register it; and/or

AND FURTHER by reason of the allegation at 3 above;

Quinn's Chemist (Crossmolina) Limited, being the Pharmacy Owner, committed misconduct such that were Quinn's Chemist (Crossmolina) Limited to apply for registration as a pharmacist, the Council would be likely to refuse to register it; and/or

AND FURTHER by reason of the conviction of Mr. Quinn, and/or the conviction and/or the misconduct of Quinn's Chemist (Crossmolina) Limited as referred to at 1 and/or 2 and/or 3 above, were Mr. Quinn and/or Quinn's Chemist (Crossmolina) Limited to apply to register as a pharmacist, the Council would be likely to refuse to register one or both of them.

3. Preliminary Applications

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

[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]

[REDACTED] and therefore had determined that the inquiry would proceed in private, but, for this reason alone.

(b). Application By Mr. O’Sullivan:

Mr. O’Sullivan’s second application was in relation to the allegations regarding the retail pharmacy business.

Attention was brought to the ground of complaint provided for by Section 36(1)(b) which states that, in relation to a complaint made to Council about a registered retail pharmacy business on the grounds that (b) *‘the pharmacy owner or an employee or a partner of the pharmacy owner has been convicted of any other offence or had committed misconduct and the nature of that offence or misconduct is such that, were the person applying to the Council for registration as a pharmacist, the Council would be likely to refuse to register the person.’*

Mr. O’Sullivan outlined that, in order to substantiate a complaint against a retail pharmacy business under this section the Registrar must not only prove a conviction and/or misconduct but must also prove that the conviction or misconduct was such that Council would be likely to refuse registration. To do so there must be a very high threshold and could only be substantiated where the underlying allegations were at the upper end of the scale.

Mr. O’Sullivan advised that the Committee would hear evidence in respect of Mr. Quinn that the Registrar’s expert, Dr. McCrystal, would say that, while he considered that Mr. Quinn was guilty of poor professional performance and that he was guilty of wrongdoing, it was also his view that it was at the lower end of the scale.

In consideration of this it was his submission that the Registrar could not substantiate any allegations against the retail pharmacy business. In a related reference to seriousness, he reminded the Committee of the Supreme Court decision in the Corbally case and how, albeit in a different context, if complaints cannot be substantiated they should not be pursued by Regulators.

His advice to the Committee was that the Registrar would not lead any evidence to substantiate the allegations against the business and that, accordingly, the Committee should report to Council that, under these circumstances, it would make no findings against the retail pharmacy business.

Following advice to the Committee and all parties present, by the legal assessor the Inquiry adjourned.

When reconvened, the Chairman advised that the Committee had carefully considered Mr O'Sullivan's application on behalf of the Registrar and the related submissions and advice. In circumstances where, for reasons explained in detail by the Registrar, no evidence would be led in support of allegations in respect of Quinn's Chemists (Crossmolina) Limited, Registration number 5854, that inquiry was now completed.

4. Findings of the Committee

Quinn's Chemist (Crossmolina) Limited trading as Quinn's Chemist (Crossmolina) Limited (Registration No. 5854).

In circumstances where, for the reasons stated at the outset,(see page Supra), the registrar did not adduce evidence in support of the allegations, the Inquiry was completed and that point and for this reason the Committee makes no finding in respect of the allegations.

ENDS.

Dermott Jewell

Signed _____

Dermott Jewell

Dated 24th March 2021.