

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: Wednesday 2nd August 2006

Name of Registrant: Mr Simon Harrison

Registration No.: PH43175

Panel: Robert Clegg - Chair

Richard Horwood - Physiotherapist

Malcolm Probert – Lay Partner

Legal Assessor: Simon Russen

Hearing Officer: Sabrina Adams

Representation:

The Council was represented by Nicola Hill of Kingsley

Napley Solicitors

Allegation(s)

Your fitness to practise as a registered health professional is impaired by reason of your misconduct whilst employed at the Wrexham Maelor Hospital; in particular

- 1. On a date between 28 June 2004 and 5 July 2004 you put your arm around Sarah Jones and put her head onto your shoulder.**
- 2. On a date between 28 June 2004 and 5 July 2004 you put your arm around Sarah Jones, hugging her and placing your head on her chest**

3. On 5 July 2004 you
 - a) Outstretched your hands towards Sarah Jones' breasts
 - b) Made various inappropriate comments of a sexual nature to Sarah Jones in front of a patient
 - c) Made inappropriate comments in relation to patients genitalia
4. On a date between 28 June 2004 and 5 July 2004 you attended at work smelling of alcohol
5. On a date between 28 June 2004 and 5 July 2004 you attended at work smelling of alcohol
6. On 5 July 2004 you attended at work smelling of alcohol

DECISION:

1. The Panel has reconvened today as a result of the Consent Order of Mr Justice Jackson made in the Administrative Court of the Queen's Bench Division of the High Court of Justice on 30th March 2006.
2. As a result of that Order the Caution Order imposed by this Panel on 16th June 2005 has been quashed and the Panel is required to reconsider and re-determine the appropriate sanction. We are expressly required, when undertaking that task, to have regard to the Appellant's Notice and Skeleton Argument of the Council For the Regulation of Healthcare Professionals submitted for the purpose of the appeal proceedings. Further, we are required, when giving our present determination, to set out in full our reasoning as to why that decision is appropriate having regard to protection of the public.
3. Mr Harrison has not attended the hearing today, nor has he been represented. The Panel is satisfied that by the letter dated 11th May 2006 he has been given proper notice of today's hearing. Further, the Panel is satisfied that it is appropriate to proceed with the hearing today, not least because we have been told that both Mr Harrison and his former Solicitors have communicated the fact that they were aware of the hearing but did not propose to attend. The Panel has, of course, reminded itself of what was said by and on behalf of Mr Harrison in June 2005.

4. This reconvened hearing does not involve any reconsideration of the findings of the Panel on the allegations. They were determined to be well founded and do not fall to be reconsidered now.
5. It should be said at the outset that the Panel has approached the task of determining the appropriate sanction by considering what is appropriate at the present time. The issue is not what was, or might have been, appropriate at the time of the original hearing in June 2005.
6. The allegations which were found to be established demonstrated that Mr Harrison behaved inappropriately towards a female colleague. In relation to that behaviour the Panel did not find that Mr Harrison was a person who had persistently harassed female colleagues. On one occasion he also made a totally inappropriate and disrespectful remark about the genitalia of an elderly female patient, a remark which was made not only in the presence, and possible hearing, of the subject patient, but also of other patients. On a number of occasions Mr Harrison had smelled of alcohol in the morning, although it was not suggested that he was affected by drink on those occasions, or had been so affected at any time during his tenure of the locum appointment. It is right to record that at no stage was his clinical performance or competence called into question.
7. It was a feature of the case that Mr Harrison showed extremely limited insight into his behaviour not only when the issue was raised by his employer, but more particularly during the hearing before us in June 2005. At the time of the hearing Mr Harrison was suffering from a stress related condition. In June 2005 the Panel was told that he had not worked as a physiotherapist (indeed, not worked at all) since the events founding the allegations in July 2004. There is no information of any sort before the Panel today to lead to a conclusion as to whether Mr Harrison has worked since our last hearing.
8. The Panel reminds itself that its primary task is protection of the public, and that it is also important to reassure public confidence in healthcare professionals and to ensure that it is understood by all healthcare professionals that proper standards of conduct are required of them. The purpose of our sanction is not to be punitive.
9. In determining the appropriate sanction the Panel repeats what is said above, namely that the position now, i.e. August 2006, has to be considered. The position is that the Panel can only assume that Mr Harrison has now not worked as a physiotherapist for a period of two years. That being the case the Panel must consider whether the public would be adequately protected were he to be at liberty to resume practice.

10. To take no further action would not be appropriate. Nor would it be appropriate to order mediation. The Panel is of the clear view that it is not possible to frame appropriate conditions of practice in this case. The absence of specific evidence as to Mr Harrison's current professional position leads the Panel to conclude that it would not be appropriate to order his striking-off at this stage. These excluded options have the consequence that the available sanctions are a caution order or suspension.
11. As between a caution order and suspension, the Panel considers that in view of the length of time since it assumes Mr Harrison has practiced as a physiotherapist, he should now not be able to return to that practice without positively demonstrating his fitness to do so. A caution order would now be insufficient and a suspension order is required.
12. A lengthy period of suspension is not necessary. The purpose of the suspension we order is to give Mr Harrison an opportunity to demonstrate, if he wishes to do so, his fitness to practice. For that purpose a period of six months is sufficient.
13. Before the expiry of the suspension we order there will be a review of it. That review will be undertaken by another Panel, and nothing said here should be construed as an attempt to fetter the discretion that Panel will have. However, it may be helpful for us to state now that if Mr Harrison wishes to demonstrate his fitness to practice he should present to that review Panel evidence that he has insight into, and taken steps to address, the behaviour which resulted in the allegations of misconduct, and, more generally, evidence of professional fitness to practice.

ORDER:

The Registrar is directed to suspend the register entry of Simon Harrison for a period of 6 months.

Right of Appeal

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court of Justice in England and Wales. The order set out above will not take effect until that appeal period

has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

INTERIM ORDER

The Panel is satisfied that it is necessary for the protection of the public for an interim suspension order under Article 31 of the Health Professions Order 2001 to be made. The duration of that order will be the earlier of (i) the appeal period expiring without an appeal being made, and (ii) (if an appeal is made) the final determination of that appeal (subject to a maximum of 18 months).

Signed.....
L. Cress

Date.....
2nd August 2006