

INVESTIGATION REPORT

Date: 3 April 2007
File Number: 07/00070- previously 98/01035-1
 See also 03/01056-1 – complaint by Mr
Complainant: NSW Medical Board
Respondent: Dr John Rolleston
Subject: Mr
Date of receipt: 27 November 2006
Date of Assessment Decision: 18 January 2007
Investigation Officer: Rochelle Dunlop
Investigation Manager: Rob Beetson

Conduct Description

1. On 27 November 2006 the Commission received a complaint from the NSW Medical Board (the Board) in relation to allegations of inappropriate examination and sexual misconduct made by Mr against Dr John Rolleston. The conduct complained of took place in 1979. Dr Rolleston denied the conduct during a previous Commission investigation into the allegations, which was terminated with no action against Dr Rolleston on 13 November 2001.
2. The Commission is currently investigating a separate complaint against Dr Rolleston of a similar nature and the Board contacted Mr and obtained his agreement to participate in a new investigation of his allegations. The Board then referred a complaint, subject matter being Mr 's allegations, to the Commission for investigation. The complaint was assessed for investigation on 18 January 2007.

Background

3. On 4 July 1979 Mr , then aged 15, fell at school injuring his coccyx and was taken to Royal North Shore Hospital Emergency Department by his grandmother. Mr was seen alone by a doctor later identified from the medical record as Dr Rolleston. Mr alleges Dr Rolleston masturbated Mr and instructed Mr to masturbate himself to orgasm whilst Dr Rolleston violently inserted his fingers in and out of Mr 's anus. Mr alleges that after a period of masturbating himself whilst Dr Rolleston was moving his finger inside his anus, Mr ejaculated into Dr Rolleston's cupped hand. Mr says Dr Rolleston told him this was to check if there was blood in his semen or anus. Mr alleges Dr Rolleston then immediately washed his hands and told Mr to get dressed. Dr Rolleston allegedly told Mr , words to the effect, that there was no blood in his semen or anus, he was fine and to rest.
4. Mr says he did not tell anyone about what happened because he was embarrassed about what had happened. He mixed with a homophobic surfing crowd and was worried he might be gay. In 1997 there was a lot of media publicity about pedophile activity in his

area and the episode began to be constantly on his mind. Mr AWC says it affected his sexual and romantic relationships, he began to have frequent anxiety attacks and sought psychiatric and psychologist support.

Previous Commission investigation

5. Mr AWC first complained to the Commission on 13 August 1998. Dr Rolleston responded that he had no recollection of the consultation and strongly denied impropriety of any kind. His solicitors submitted that the Commission should not proceed with the complaint on the basis that, because of the very lengthy delay in bringing the complaint, Dr Rolleston was placed in an impossible position to defend himself. They argued Dr Rolleston was prejudiced in seeking out possible witnesses and, submitted, Mr AWC had not made contemporaneous complaint to other persons.
6. The Commission terminated the investigation on the grounds that:
 - a. The alleged misconduct occurred 22 years previously and the significant delay in making the complaint placed Dr Rolleston in a prejudicial position in defending himself.
 - b. After 22 years there was no longer a public interest in taking disciplinary action.
 - c. There had been no other complaints of this nature against Dr Rolleston.
 - d. There was a strong possibility any disciplinary action would be permanently stayed given the lapse of time since the alleged misconduct.
 - e. The lack of corroborative evidence.

Current investigation

7. On 6 February 2007 Mr AWC confirmed his statement to the Commission dated 30 October 1998 and provided the names of a number of practitioners and friends he allegedly told of the matter in the period from 1997 onwards.
8. Dr Lisa Lampe, Psychiatrist, saw Mr AWC in 1998. Her notes for 13 February 1998 record:¹

" Many psychological stresses all the paedophiles in the news made him more acutely aware of distress over incident of sexual assault at 15 years;" ...". also lingering resentment mother wasn't with him at the doctor's when assaulted."... " Mother overseas when sex assault occurred – was for 5 weeks.."

9. Dr Lampe's letter back to Mr AWC's GP stated;

" The traumatic incident which occurred in his life at the age of 15 only made matters worse [i.e. anxiety and panic attacks which had an onset earlier in his 16th year, that is, the year during which he was 15]. He has thought about it over the years since and continued to experience distress over it with some exacerbation of this through 1997."

¹ Dr Lampe report to HCCC dated 28 February 2007.

10. Dr Lampe was unable to recall any details Mr [AWC] may have told her about the assault, such as the identity of his assailant, because she saw him at the Evesham Clinic anxiety disorder program and routinely did not record highly personal details in those files so as to protect the individual's privacy. Dr Lampe has been asked for a copy of her records but has not yet provided them.
11. Dr Malcolm Parmenter, Mr [AWC]'s GP in 1998, has failed to respond to the Commission's request for information. It may be that he is no longer practising.
12. Ms Simonette Vaja, Registered Psychologist and Clinical Hypnotherapist, saw Mr [AWC] in about 1997-1998. She was unable to locate his consultation records and based her statement on her recall of the consultations. She has not had contact with Mr [AWC] for a number of years and did not recall the doctor's name. Ms Vaja stated ²;

"Mr [AWC] consulted me about a relationship breakdown. During my counselling sessions with Mr [AWC] I recall him telling me of an incident that occurred when he had consulted his local doctor. I recall that it was sexually inappropriate behaviour initiated by the doctor and that Mr [AWC] was young at the time and compromised.

I recall asking Mr [AWC] to tell me more about the incident. I do not recall his response. I think he said he told his mother but that he didn't want to worry her about it. I don't think he had taken any action against the doctor"

13. Mr [AWC]'s friend, [REDACTED], told the Commission he would not attempt to provide a full history of his conversations with Mr [AWC] in chronological order as he is unable to recall the exact dates or statement, however, he clearly recalls the topic, content and spirit of their conversations.
14. Mr [REDACTED] stated;³

" I have been a friend of [AWC]'s since 1993. [AWC] first made reference to Dr John Rolleston in about late 1998 without referring to him by name. [AWC] spoke briefly about the sexual conduct of a doctor to him when he was about 14. He told me the doctor was now working in Broken Hill but was his local doctor at the time. He said he was angry that someone should get away with what he had done and asked me if he should do something about it. I said for him to do what he wanted and that I would go to Broken Hill and confront the doctor if he wanted. He said he had lodged a complaint with a government agency. Given the subject matter I did not want to launch into an interrogation of [AWC] despite being angry and concerned for him.

About a week later we spoke again and [AWC] outlined what had actually happened. [AWC] said very directly that Dr Rolleston had masturbated [AWC] while also having his finger in [AWC]'s anus. These were not the exact words used, as his description was more colloquial, but my interpretation is exact.

Since 1998 there have been about 5-6 other occasions where [AWC] has updated me on the progress of his complaint against Dr Rolleston."

² Ms Simonette Vaja statement to HCCC dated 12 March 2007.

³ Mr [REDACTED] statement to HCCC dated 15 March 2007.

15. Mr [AWC] s former friend, Ms [REDACTED] told the Commission;⁴

" [AWC] told me about the incident with Dr Rolleston in approximately 1998. We were at dinner at the Centennial Hotel and I remember what he said vividly as we were both very emotional during the discussion. [AWC] told me that when he was a young man (I can't recall the exact age) his grandmother took him to the Emergency Department of the Royal North Shore Hospital for stitches. He said his mother was overseas at the time. His grandmother was asked to wait outside. [AWC] said the doctor then sexually molested him. I did not ask the specifics of what happened. [AWC] told that for years later he felt guilty that he hadn't said anything at the time and he agonised over whether he was gay or had done something to encourage the doctor."

16. Dr Rolleston has not provided a response in this investigation.

Recommendation

17. The Commission to obtain legal advice in relation to the evidence obtained and the possibility of a successful prosecution. If advice indicates, s.40 together with complaint by Mr [AWH] (Angela O'Gorman), recommending referral to the DP for determination of whether a complaint should be prosecuted before a disciplinary body pursuant to s 39 (1)(a) of the Act.

⁴ Ms [REDA] statement to HCCC dated 9 March 2007.