



1 August 2011

Our ref: ALD 090143

Your ref: (Legal) 03/01056, 07/00070, 09/01047 and 09/01529

Your ref: (Investigations) 09/02751, 09/02752, 09/02753, 09/02754, 09/02755, 0902756, 09/02757, 09/02758 and 09/02759

Ms Karen Mobbs
 Director of Proceedings
 Health Care Complaints Commission
 Locked Mail Bag 18
 STRAWBERRY HILLS NSW 2012

Dear Ms Mobbs

Dr John Rolleston - Complaints by AWH AWO AWC
 REDACTED AWB REDACTED REDACTED REDACTED REDACTED AWC
 REDACTED REDACTED REDACTED REDACTED and AWA

We refer to your telephone conversation with the writer on 6 July 2011 and the email exchange between Ms Brazel and the writer on 18 July. As you are aware, we act for Dr Rolleston.

As discussed on 6 July last, these matters have been on foot for some time and have involved complaints to each of the Health Care Complaints Commission ('the HCCC'), the Medical Council of NSW ('the Council') (formerly, the NSW Medical Board at the relevant time) and the NSW Police Service.

In relation to the complaints to the HCCC, we note those matters are presently at various different stages of the process. Specifically, we note the matters involving Mr AWH Mr AWO, Mr AWC and Mr AWB have been referred to you - following completion of the investigation - for determination as to whether any further action ought to be taken whilst the remaining matters are presently with the HCCC's Investigation Unit.

To that end, we note the advice of Ms Keady, Investigation Officer in her letter's dated 26 February 2010 and 3 March 2010 that the HCCC had at that time determined to suspend its investigations

22665/AD

Ms Karen Mobbs

pending the outcome of the Court (Criminal) proceedings. More recently, we note the advice of Ms Brazel, Investigation Officer in her email of 18 July that the investigation of the matters which have not yet been referred to you will be re-activated shortly.

In relation to the matters which were considered by the Council, we confirm that on 25 March 2010 and following a section 66 Inquiry conducted by the Board, Dr Rolleston's Registration was suspended. He has not practised since that time.

In relation to the matters which were dealt with by the NSW Police Service, we note the following. In October 2010, the matters were listed for Hearing before her Honour Judge Flannery SC DCJ in the District Court of NSW. On that occasion her Honour heard an Application for a Stay of the Indictment and then, lengthy legal argument in relation to the form of the Indictment which had been presented by the Crown.

Ultimately, certain of the matters were listed for Hearing before her Honour and a Jury in February 2011. At that time, the Crown presented an amended Indictment which charged Dr Rolleston with a total of 11 Counts of Indecent Assault in relation to the patients, REDACTED, AWG, REDACTED, AWB and AWC. At the conclusion of the Hearing, the Jury returned 1 Not Guilty Verdict (by Direction) and 10 Guilty Verdicts.

At the conclusion of that Trial, the Crown indicated that it would file a further Indictment charging Dr Rolleston with the remaining offences with which he had initially been charged in respect of the patients, REDACTED, REDACTED, REDACTED, AWH, AWO, REDACTED and AWA.

In relation to the complainants, Mr RED and Mr RE, the Crown confirmed that in light of the nature of the allegations made by each of those men (and because of the circumstances surrounding the Directed Verdict), it would not proceed with any charges in respect of them.

Finally, we note the Police did not charge Dr Rolleston with any charges in relation to Mr RED and therefore he was never included in the proceedings before the Court.

On 5 May 2011, Dr Rolleston appeared before her Honour Judge Flannery SC DCJ and entered Guilty pleas to the 7 Counts (1 Count for each of those patients above) contained within the Indictment presented on that occasion. He also requested her Honour to have regard to 10 further matters which were contained on a Form 1.

Ms Karen Mobbs

Following a Sentence Hearing on 3 June 2011, Dr Rolleston was released to Bail. He thereafter appeared before her Honour for Sentence on 24 June 2011. On that occasion, her Honour sentenced Dr Rolleston to a term of Imprisonment of 4 Years with a non-parole period of 18 months.

On 6 July last, Dr Rolleston again appeared before her Honour Judge Flannery SC DCJ at which time he was re-sentenced. The re-sentencing exercise occurred because of a number of errors with accumulation and periods of individual sentences within the original overall sentence. The effect of the sentence was unchanged. Dr Rolleston is presently incarcerated and will be eligible for release to parole on 23 December 2012.

As you may be aware, Dr Rolleston turned 73 years of age in April 2011. He has not practised medicine since 25 March 2010 and recently sold his practice in Broken Hill.

We are instructed Dr Rolleston will not seek to renew his Registration when it falls due this year. We are further instructed Dr Rolleston will not seek to renew his Registration upon his release from custody or going forth from that time. To that end, we enclose for your records, a copy of a Statutory Declaration declared by Dr Rolleston on 3 June 2011 to that effect.

In all of the circumstances, we are of the view there is somewhat limited utility in the HCCC proceeding to finalise its investigations of the outstanding matters and similarly, little to be achieved by the HCCC seeking to ultimately prosecute a Complaint in the Tribunal.

In relation to the issue of Public Protection, we note upon his release, Dr Rolleston will be subject to various Parole Conditions and will have his name entered onto the Sexual Offender's Register.

In relation to the competing public versus private interests which we discussed, we do not accept that the ongoing expense involved in finalising the investigation of the matters in that category or, the prosecution of the whole of the matters to be a cost effective exercise especially in circumstances where having been found guilty of certain of the offences, Dr Rolleston thereafter entered guilty pleas to the remainder of the matters and where he has declared that he will not seek re-registration as a medical practitioner.

Should you wish to discuss this, please contact the writer.

Yours faithfully
Unsworth Legal


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c.c. Ms Alison Brazel, Investigation Officer, Health Care Complaints Commission (by email)