

Action under section 66 Consultation with Board Member

To be completed by secretariat prior to consult

MPO: 085512

Name: Dr John Philip Rolleston

DOB: 20 April 1938

Type/Format of notification of concern: Historical sexual misconduct allegation(s)

Summary of incident/concern:

The Board is in receipt of a complaint dated 11 May 2009 from Mr ^{AWB} [redacted] alleging Dr Rolleston masturbated him on several occasions during medical consultations in 1978 and 1979 (Mr ^{AWB} [redacted] was then 14 and 15 years of age) [Tab 1]. This complaint has been referred to the Health Care Complaints Commission for investigation.

Background

Dr Rolleston is a generally registered GP practising in Broken Hill. The Board has now received complaints from four male complainants alleging Dr Rolleston indecently assaulted and/or sexually assaulted them in the 1970's [Mr ^{AWC} [redacted] (1998), Mr ^{AWO} [redacted], Mr ^{AWH} [redacted] (2003 and 2006), and now Mr ^{AWB} [redacted] REDACTE (2009)]. Dr Rolleston's disciplinary/complaint history is as follows:

Board History

11 May 2009 – **Current Complaint** – boundary crossing (investigation)
 10 July 2006 – **Complaint** (addendum to 2003 complaint) – (investigation/with DP)
 10 May 2004 – **Complaint** – unpaid debts (no further action)
 9 May 2003 – **Complaint** – sexual assault (no further action)
 1998 – **Complaint** – boundary crossing (no further action)
 3 October 1990 – **MTR** – restored to the register (conditions)
 27 February 1987 – **MT** – Medicare fraud (removed from the register)

On 2 April 2008 Dr Rolleston advised the Board that in 2004 and 2007 he had been charged with DUI. He was considered for inclusion in the Board's health program however upon interviewing Dr Rolleston it was determined his drinking was not problematic and he was therefore not impaired.

Documents provided to delegates:

Document	Date
1. HCCC Complaint Assessment Sheet attaching Statement of Mr ^{AWB} [redacted] including drawing of Dr Rolleston's surgery dated 10 January 2008	11 May 2009
2. Letter from the HCCC to the Board	5 May 2009
3. Clinical Interview Report by Dr Victoria Sutton	26 September 2008
4. Letter from Avant to the Board	13 June 2008
5. Minutes of meeting for Conduct Committee	8 April 2008
6. Letter from the HCCC to the Board, enclosing: a) Investigation Brief of files 03/01056 and 07/00070, Undated b) Statement of Mr ^{AWC} [redacted], dated 6 February 2007 c) Statutory Declaration of Mr ^{AWC} [redacted], dated 30 October 1998 d) Statement of Mr ^{AWO} [redacted], dated 13 August 2007 e) Statement of Mr ^{AWH} [redacted] including drawing of Dr Rolleston's surgery, dated 19 January 2007 f) Letter from Dr Linda Mann to the HCCC, dated 19 February 2008 g) Letter from the HCCC to Avant, dated 10 March 2008 h) Letter from UMP to the HCCC, dated 21 November 2006	2 April 2008
7. Policy minutes of meeting for Conduct Sub-Committee	24 October 2006
8. Minutes of meeting for Conduct Sub-Committee	10 October 2006
9. The Board's File Review	10 October 2006

10. Letter from the HCCC to the Board	26 September 2006
11. HCCC Investigation Report	19 September 2006

On behalf of the Board you are asked to consider whether the current circumstances give rise to a need to hold proceedings to consider action under section 66. I note the amendments to the *Medical Practice Act 1992* all the Board to take action under section 66 if satisfied it is in the public interest.

Section 66 provides:

Suspension or conditions to protect the public

- (1) The Board must, if at any time it is satisfied that it is appropriate to do so for the protection of the health or safety of any person or persons (whether or not a particular person or persons) or if satisfied that the action is otherwise in the public interest:
 - (a) by order, suspend a registered medical practitioner from practising medicine for such period (not exceeding 8 weeks) as is specified in the order, or
 - (b) impose on a registered medical practitioner's registration such conditions relating to the practitioner's practising medicine as the Board considers appropriate.

- (2) If at any time the Board is satisfied that a registered medical practitioner has contravened an order or condition of the practitioner's registration that is a critical compliance order or condition under section 61, the Board must:
 - (a) by order suspend the practitioner from practising medicine until a complaint concerning the matter is dealt with by the Tribunal, and
 - (b) refer the matter to the Tribunal as a complaint.

Relevant factors in making a decision to have the Board consider action under s66 include:

- a) Protecting the health and safety of the public (In exercising functions under the act this is to be a **PARAMOUNT consideration**)
- b) Nature and magnitude of the harm or risk of harm
- c) Detecting or exposing serious matters
- d) Reputation and standing of the medical profession (maintaining standards)
- e) Maintaining public confidence and trust in the administration of the *Medical Practice Act 1992*
- f) Maintaining public confidence and trust in health system
- g) Ensuring accountability of medical practitioners
- h) Protection of the practitioner from harm or possibility of harm
- i) Previous compliance/non-compliance with conditions
- j) Privacy of an individual
- k) Practitioners ability to earn an income
- l) Nature and status of matters
- m) Weight of the evidence (mere allegations, investigated conduct, proven conduct)

- n) Likelihood of further conduct occurring
- o) Refusal to cooperate with Board processes
- p) Desirability of removing or restricting a practitioner from a particularly remote or needy community
- q) Desirability of removing or restricting a practitioner who offers a particular service (specialty, language, culture)

The second delegate considering this matter concerning Dr Rolleston is Dr Kendra Sundquist, Ed.D. and she may be contacted as follows:

W: 02 9334 1944 M: [REDACTED]
E: kendras@nswcc.org.au

Secretariat member: Ms Bronwyn Sharp

Date: 27 May 2009

Consult with (Board Member):

I, Dr Greg Kesby, consider this matter concerning Dr Rolleston

does / does not

warrant the convening of proceedings pursuant to section 66 of the Act.

Signature

Date

Comments: _____

