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Our Ref: MPO085512-07 : DD13/10550

AHPRA Reg No: MED0000944123

21 May 2013

Dr John Rolleston  
PO BOX 744  
SPIT JUNCTION NSW 2088

**CONFIDENTIAL**

Dear Dr Rolleston

**New South Wales Medical Tribunal decision – Removal from the Register  
Proceeding No: 40028/12**

I refer to the Judgment of the Medical Tribunal of NSW (the Tribunal) handed down on 17 May 2013 (copy **enclosed**). The proceedings were conducted under the *Health Practitioner Regulation National Law (NSW)* (National Law (NSW)).

The Medical Council of New South Wales (the Council) notes the following findings with respect to the five Complaints prosecuted by the Health Care Complaints Commission:

**Tribunal Findings**

The Tribunal found that you :-

- i. have been convicted of criminal offences,
- ii. are guilty of unsatisfactory professional conduct in that you have engaged in improper or unethical conduct relating to the practice of medicine or purported practice of medicine,
- iii. are guilty of unsatisfactory professional conduct in that you contravened conditions to which your registration was subject,
- iv. are guilty of professional misconduct, and
- v. are not a suitable person for registration as a medical practitioner.

**Orders with effect from 17 May 2013**

The Tribunal made the following formal orders:

- (i) The respondent's registration is cancelled;
- (ii) alternatively, (if the respondent's registration has lapsed) had the respondent been registered, the Tribunal would have cancelled the registration on the bases of section 149C(1)(b), (c) and (d) of the National Law and would have disqualified him from being registered in the health profession for a period of four years - section 149C(4);
- (iii) the respondent is not permitted to reapply for review of his registration for a period of four years from the date of this order;
- (iv) the respondent is prohibited from providing health services generally until such time as he is reinstated to the Register of medical practitioners.
- (v) the respondent is to pay the costs incurred by the HCCC up until 25 March 2013; thereafter, each party is to pay its own costs.

**Effect of the Tribunal's Orders**

The Tribunal's orders have been notified to the Australian Health Practitioner Regulation Agency by the Council.

**Application for Review of the Tribunal's Order**

Please note that any application for a review of the Tribunal's orders will need to be made in accordance with section 163A of the National Law (NSW).

Under section 163A (3) of the National Law (NSW), an application for review of the order may not be made until after a specified time. The Council notes that the Tribunal specified that you may not make an application for a review of the order for a period of four years from 17 May 2013, that is, not before 17 May 2017.

**Notice of Decision**

The Council has forwarded a Notice of Decision to New Zealand. I **enclose** a copy of the Notice of Tribunal decision dated 21 May 2013 which will also be forwarded to various authorities in accordance with Council's obligations.

## Your obligations concerning Medical Records

Your attention is drawn to the provisions in the *Health Practitioner Regulation (New South Wales) Regulation 2010* concerning medical records, in particular, how long records are to be kept and provisions which apply on the disposal of a medical practice. Part 4, clauses 7-12 are **enclosed** for your information.

A person who makes or keeps a record under the regulations must ensure that when the record is disposed of, it is disposed of in a manner that will preserve the confidentiality of any information it contains relating to patients.

## Restrictions on unregistered practitioners

It is an offence to hold yourself out to be a registered medical practitioner. Your attention is drawn to the Title Protections provisions (particularly sections 113 to 120) in the National Law (NSW), which are **enclosed**.

## Prohibition on the provision of health services generally

It is an offence for you to provide health services in contravention of the Tribunal's prohibition order, under s102(3) of the *Public Health Act 2010* No 127. It is also an offence to provide a health service as a de-registered health practitioner without first complying with section 102 of the *Public Health Act 2010* and clause 94 of the *Public Health Regulation 2012*. Your attention is also drawn to s149C(5) of the National Law (NSW), concerning prohibition orders in relation to the provision of health services. Copies of these legislative extracts are **enclosed**.

I strongly recommend you seek legal advice about how you may be affected by legislative requirements in your particular circumstances.

## Notifications by practitioner

We draw your attention to the *Health Services Act, 1997* which provides that a VMO appointed by a *public health organisation*<sup>1</sup> (s99(2)), or an *employee* (s117(2)) who has a finding of unsatisfactory professional conduct or professional misconduct made against him or her, must report that finding within seven days to the CEO and provide a copy of that finding.

I strongly recommend you seek legal advice about how you may be affected by legislative requirements in your particular circumstances.

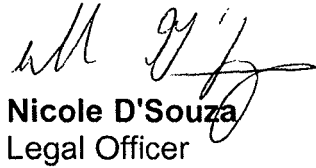
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<sup>1</sup> Section 7 of the Health Services Act 1997 defines a *public health organisation* as an area health service, or statutory health corporation (see Schedule 2) or an affiliated health organisation in respect of its recognised establishments and recognised services (see Schedule 3).

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Please do not hesitate to contact me on 9879 2227 if I can be of further assistance.

Yours sincerely



**Nicole D'Souza**  
Legal Officer

*Enclosures:*

1. Copy of Medical Tribunal Decision 17 May 2013
2. Copy of Notice of Tribunal Decision dated 21 May 2013
3. *Health Practitioner Regulation (NSW) Regulation 2010*, Part 4, clauses 7-12
4. *Health Practitioner Regulation National Law (NSW)*, sections 113- 120 and section 149C
5. *Public Health Act 2010 No 127*, section 102 and *Public Health Regulation 2012*, clause 94
6. *Extract Health Services Act 1997 ss 99 & 117*

CC: Mr Andrew Davey (Unsworth Legal)