

IN THE FAMILY HEALTH SERVICES APPEAL AUTHORITY

Case No: 13296

APPEAL HEARD ON 26TH OCTOBER 2006

BETWEEN

ANGLESEY LOCAL HEALTH BOARD

Applicant

and

DR ELLIS W OWENS

Respondent

DECISIONS AND REASONS

DECISION

Background

On the 27th March 2006 the Applicant suspended the Respondent from its Performers List for a period of six months ending on the 27th September 2006. The reason for the suspension was that the Respondent was felt to be a risk to his patients on the basis that there was a suspicion the Respondent had an alcohol related problem and further, the Respondent had not completed an annual appraisal which was due for completion by the 31st October 2005. Despite numerous written and verbal reminders the Respondent has still not completed the appraisal by the 13th February 2006. An appraisal was arranged for the Respondent on the 24th March 2006. Unfortunately, due to a complete lack of any post graduate activity over the preceding few years and a lack of appraisal folder, the appraisal was terminated and the Respondent was deemed not to have engaged in the appraisal process.

The initial suspension took place on the 27th March 2006 and was for three months, the suspension was ratified by a full Review Panel on the 27th March 2006.

The Review Panel agreed with the Applicant that an Occupational Health Report be enquired as to the Respondent's fitness which should be commissioned and paid for by the Local Health Board. This was requested to be undertaken out of the area. The Respondent was to continue to attend accredited courses in order to catch up with post graduate education.

An appointment was raised with Dr Donald Menzes, Director of Occupational Health at the Stockport NHS Foundation Trust. However, due to a delay in obtaining Medical Reports from the Respondent's GP and some delay in obtaining Laboratory Reports, the Occupational Health Assessment was not available for the reconvened Panel Meeting of the 20th June 2006.

The Applicant in agreement with the Respondent extended the original three month suspension by a further period of four weeks.

On the 25th July 2006 a Reference Panel was convened. The Report from Dr Menzes was made available. The Respondent who had seen the Report admitted that he had an alcohol problem and needed expert help in order to overcome his addiction. The Applicant with the Respondent's agreement extended the suspension for a further period of three months to the 27th September 2006.

The Application to extend the period of suspension was made by letter to the Family Health Services Appeal Authority (FHSA) on the 15th August 2006.

Decision

The Applicant obtained a Report from Donald Menzes Occupational Health Review which was dated the 18th July 2006. This raised concerns in respect of problems of the Respondent's alcohol dependence, which suggested a referral to a Specialist in that field. The Respondent requested that the referral take place out of the area.

An appointment has been arranged with Dr Clare Sillince on the 6th October 2006. Dr Sillince is a Consultant Psychiatrist.

The Respondent has not agreed to the further extension. However, the Respondent has not dissented to a period of further extension.

The reasons for the delay however are entirely due to the Respondent refusing to accept his problems with alcohol dependence. Had this been identified initially and accepted by him rather than suggesting other reasons, it may be that the investigation could have been completed within a period of six months. The Panel feel that the delay in this matter is entirely as a result of the Respondent's position and further, that the Applicant has acted appropriately and not caused any delay of their own making.

The Panel therefore agree in accordance with Regulation 13(6) of the National Health Service (Performers List) (Wales) Regulations 2004 to make a further Order extending the period of the Applicant's suspension to the 26th March 2007.

Appeal

In accordance with Rule 42(5) of the Rules we hereby notify the parties that a party to these proceedings can appeal this decision under Section 11 of the Tribunals and Enquiries Act 1992 by lodging Notice of Appeal in the Royal Courts of Justice, The Strand, London, WC2 A2LL within 28 days from the receipt of this decision.

Dated this day of 2006