

IN THE MATTER of the Dental Act 1988

AND

IN THE MATTER of a hearing by the Dentists Disciplinary Tribunal in respect of **Natu Rama** of Auckland, Dentist

TRIBUNAL
Dr P A C Coote (Chair)
Dr C Lloyd
Dr W Ross
Ms M Avia
Ms W Davis

LEGAL ASSESSOR Ms K P McDonald QC

TRIBUNALS OFFICER Mrs S D' Ath

COUNSEL Mr M R Heron for Director of Proceedings
No appearance for Dr Rama

DATE OF HEARING 10 November 2003
1 March 2004

DATE OF DECISION 11 November 2003

DATE OF DECISION
ON PENALTY 1 March 2004

DECISION OF THE TRIBUNAL

SUMMARY OF FINDINGS

1. The Tribunal has found that Dr Rama's treatment of Ms A was of an unacceptable standard in that he:

- (a) failed to ensure adequate margins when fitting crowns to four teeth; and
- (b) failed to keep accurate, adequate, and legible notes of Ms A's clinical care.

In respect of these findings, Dr Rama is guilty of an act detrimental to Ms A's welfare under s 54(1)(b) of the Dental Act 1988.

2. Dr Rama's treatment of Ms A was also found to be of an unacceptable standard in a number of other respects. When assessed cumulatively, the following were found to be sufficiently serious to attract disciplinary sanction under s 54(1)(b) of the Act:

- the failure to treat caries in Ms A's tooth 27, to adequately inform her about the caries and to discuss with her management options for the caries;
- the failure to adequately prepare two teeth for root canal work.

PROCEDURAL MATTERS

Dr Rama did not appear before the Tribunal and was not represented. Nevertheless, the Tribunal accepts that Dr Rama has had proper notice of these proceedings. On 22 December 2003 Dr Rama was served with the Tribunal's decision by courier to his business address. In that decision the Director of Proceedings and Dr Rama were each directed to make submissions on penalty and costs. On 13 January 2004 the Director of Proceedings served submissions on Dr Rama. Dr Rama had 21 days from that date to make submissions however none were received from him.

On 5 February 2004 Dr Rama was served with notice of the hearing date by courier to his business address.

Written and oral submissions on behalf of the Director of Proceedings were made and taken into account by the Tribunal in its decision.

FACTORS CONSIDERED BY THE TRIBUNAL

3. In reaching its decision on penalty the Tribunal considered the following:

Aggravating Factors.

- Dr Rama's treatment of Ms A fell well below acceptable standards for a general practitioner.
- The failures and actions encompassed not just one but many aspects of ordinary dental practice.
- The crown work is so grossly deficient that Ms A will have to have this redone. She suffered significant pain during Dr Rama's treatment of her teeth and is now facing the prospect of further discomfort and great inconvenience because of the need for rework.

- The substandard treatment has significantly increased the risk of future dental deterioration for Ms A.
- The Tribunal was advised by Mr. Heron that Dr.Rama has not complied with supervision requirements imposed on him as the result of a previous adverse finding by the Tribunal.

Mitigating factors

- The charges are historic relating to late 1998 to early 1999.
- The Tribunal was advised by Mr.Heron that Dr Rama is an undischarged bankrupt. Accordingly his ability to pay a fine is likely to be limited.

PENALTY

4. Under s 55(1)(e) of the Act Dr Rama is censured in respect of each charge proven.

5. Under s 55(1)(b) of the Act Dr Rama's registration is suspended for a period of three months from the 1st May 2004. The Tribunal has considered that suspension of registration is likely to have serious consequences for Dr Rama, particularly since the Tribunal understands that he is an undischarged bankrupt. The Tribunal has taken care to balance the consequences of suspension against the gravity and number of aggravating factors in this case and finds that a period of suspension is necessary to protect the public and to maintain proper professional standards in the dental profession.

7. Because suspension is likely to bring with it a heavy financial penalty, the Tribunal did not consider it appropriate to impose a fine on Dr Rama.

8. Under s 55(1)(c) of the Act, the Tribunal also orders that Dr Rama practice under supervision for 12 months immediately following the expiry of the suspension order. The Tribunal considers that supervision is necessary to ensure that members of the public are not harmed or adversely affected by work performed by Dr Rama which is below acceptable standards and to ensure that Dr Rama's conduct conforms to an acceptable professional standard.

9. Dr Rama's supervision is to be undertaken according to the following protocol.

Supervisor:

- One or more supervisors will be appointed by the Chairperson of the Dental Council of New Zealand. The supervisor(s) should be based in the greater Auckland area. It shall be the responsibility of Dr Rama to ensure that he accepts appropriate supervision.

Objectives

- To ensure that Dr Rama is aware of, and using, techniques and treatment methods consistent with the safety and well being of patients particularly in the areas of crown and bridge work, endodontic work, and diagnosis.
- To ensure Dr Rama is aware of the importance of informed consent and the obligation to provide information and education to patients.

- To ensure that the procedures followed by Dr Rama meet the standards of a competent experienced general practitioner.
- To ensure that Dr Rama keeps complete, adequate, and legible records.

Scope of Supervision

- To review the diagnosis treatment plans and treatment of patients selected by the supervisor(s).
- To review the adequacy of Dr Rama’s records.

Method

- Initially, the supervisor(s) will visit Dr Rama fortnightly at time selected by the supervisor(s).
- The frequency of these visits is to be reviewed by the supervisor(s) in consultation with the Chairperson of the Dental Council.

Reporting

- The supervisor(s) will report to the Chairperson of the Dental Council at intervals of no less than three months following the appointment. The supervisor(s) may report more frequently, if the supervisor(s) deem it necessary.

COSTS

10. The Tribunal orders that Dr Rama meets 20% of the costs of and incidental to the Dentists Disciplinary Tribunal process. The Tribunal has taken into account Dr Rama’s financial circumstances in making the order for costs.

NAME SUPPRESSION

11. The Tribunal makes no order to suppress Dr Rama’s name. Name suppression was not sought.

12. The Tribunal orders suppression of the complainant’s name or of any information that may lead to her identification

Philip Coote

Chairperson of the Dentists Disciplinary Tribunal