

Report of the Health Committee to the Council of the Pharmaceutical Society of Ireland following an Inquiry held pursuant to Part 6 of the Pharmacy Act 2007.

Registered Pharmacist:

[REDACTED]

Registration Number:

[REDACTED]

Complaint Reference(s):

494.2019

Date of Inquiry:

17th January 2022.

Members of Inquiry
Committee:

Mr. John O'Malley, Chair, non-
Pharmacist

Ms. Karen Furlong, non-
pharmacist

Mr. Martin Hynes, Pharmacist

Legal Assessor:

Mr. Nicholas Butler, SC

Medical Assessor:

Ms. Ailis Ní Riain

REPORT OF THE HEALTH COMMITTEE TO THE COUNCIL OF THE PSI FOLLOWING THE CONCLUSION OF AN INQUIRY PROCESS UNDER PART 6 OF THE ACT ON 17 JANUARY 2022

1. Subject Matter of the Complaint

1. Authorised Officer's Report written pursuant to Part 7 of the Pharmacy Act 2007 in respect of [REDACTED], written by Sinead O'Keeffe dated 7th February 2019; and
2. Investigation Report of the PSI Registrar dated 8th February 2019.

Pursuant to the Investigation Report of the Registrar dated 8th February 2019, the Registrar noted that there was evidence that:-

- (a) [REDACTED] was consuming alcohol whilst practising as a pharmacist in [REDACTED] on Thursday 29th November 2018, and
- (b) [REDACTED] practice as a pharmacist in [REDACTED] Pharmacy, [REDACTED] was adversely affected by [REDACTED] alcohol consumption on Thursday 29th November 2018.

On the basis on (a) and (b) above, the Registrar formed the view that there were grounds for a complaint against [REDACTED] on the grounds set out in section 35(1)(a) and/or 35(1)(b) and/or 35(1)(c) of the Pharmacy Act 2007. In the interest of the health and safety of the public, the Registrar also formed the view that, pending the conclusion of the complaints process, [REDACTED] should not practise as a pharmacist.

2. Allegations

A formal Notice of Inquiry has not yet been prepared but it was clear from the papers and confirmed on behalf of the Registrar that in the event of an Inquiry the allegations would be as follows:

1. Alleged professional misconduct or poor professional performance: on two occasions, once on 21 Sept 2017 and subsequently at a different pharmacy on 29 November 2018, [REDACTED] was at work in an intoxicated state, drinking alcohol during the working day and unable to practise safely. On one of these occasions, [REDACTED] was seen to take away a controlled drug, [REDACTED]. This medication had not been prescribed for [REDACTED] but had been returned by a patient for whom it had been prescribed.

2. Alleged impairment of [REDACTED] ability to practise by reason of a physical or mental ailment, namely an addiction to alcohol.

3. Meeting of the Committee on 17 January 2022 in advance of an Inquiry to consider an application on behalf of [REDACTED] that the complaint be dealt with by means of a Request by the Committee under section 46 of the Act.

Mr. Simon Mills SC (for [REDACTED], with the agreement of the Registrar, respectfully submitted that the Health Committee should formally request [REDACTED] to provide certain consents and undertakings pursuant to section 46 of the Pharmacy Act 2007 in the terms of a written document entitled "Proposed Undertakings" (Appendix "A"). A Core Book had been circulated in advance and submissions were also made by Ms Zoe Richardson on behalf of the Registrar.

Mr Mills, SC for [REDACTED] submitted that the Committee should make a request under section 46 of the Act that [REDACTED] would undertake and consent to certain measures, that [REDACTED] would agree to such a request and that this would be a fair outcome to the process and would meet the public interest. Ms Richardson, solicitor for the Registrar, said that any request was a matter for the Committee, that if a request was made, the terms discussed between the parties and agreed (subject to a Committee decision) would be appropriate, reasonable and would afford suitable protection of the public in all the circumstances. The terms of the proposed request were submitted in writing and are attached to this Report at Appendix "A".

The Committee reviewed the extensive Core Book of Documents, heard detailed submissions and also considered the advice of its Legal Assessor Mr Butler S.C, given in the presence of the parties who agreed with this advice. [REDACTED] engaged to provide an independent medical view by the PSI, stated that it is his expert opinion that the Registrant does not suffer from an impairment at present. The Committee had regard to medical advice from Dr Ailís ní Riain in reaching its decision. Having done so, it made a formal request to [REDACTED] under section 46 of the Act in the proposed terms. [REDACTED] confirmed [REDACTED] undertakings and consents in these terms and to confirm this in writing. This concluded the Inquiry process before the Committee and it will be for the Council to censure [REDACTED] in accordance with [REDACTED] Consent.

Reasons: The following is a summary of the Committee's reasons for its request:

Although the Inquiry had not yet commenced, the allegations in any Notice of Inquiry, when prepared, would be based on very serious complaints of misconduct, poor professional performance and impairment of ability to practise pharmacy. The nature, extent and implications of these allegations were clear to the Committee from the documents relating to the Registrar's investigations. These included a large number of statements from proposed witnesses, medical reports over a number of years, [REDACTED] medical history, [REDACTED] engagement with medical and other supports in [REDACTED] recovery and testimonials from recent employers who are aware of [REDACTED] history and who hold [REDACTED] in high esteem.

Based on this agreed evidence, all of which was consistent over time, the Committee was impressed by [REDACTED] approach to [REDACTED] recovery against the background of [REDACTED] other health problems, particularly [REDACTED] which was diagnosed while [REDACTED] was [REDACTED]. Random testing since December 2018 has shown no evidence of alcohol consumption. [REDACTED] has attended [REDACTED] treating psychiatrist and [REDACTED] GP regularly and both report very encouraging progress in [REDACTED] rehabilitation. [REDACTED] attends AA and other supports regularly also. [REDACTED] co-operated readily with the PSI by agreeing not to practise at all initially pending the outcome of the complaint process and, subsequently, to practising under strict conditions when this was considered safe by [REDACTED] psychiatrist Dr [REDACTED] and [REDACTED] retained by the PSI to provide another view.

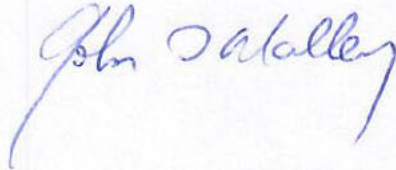
The single instance of removing a controlled drug (which had been returned by a customer for whom it had been supplied under prescription) was addressed by [REDACTED] treating psychiatrist [REDACTED]. He believed [REDACTED] alcohol dependence clouded [REDACTED] judgment on that occasion, that there was no evidence of issues with prescription medication and that without [REDACTED] alcohol dependence this incident would never have happened.

On this basis the Committee was satisfied that [REDACTED] demonstrated appropriate insight into [REDACTED] conduct and illness and an understanding of what [REDACTED] needs to continue to do to address it. [REDACTED] also expressed appropriate remorse.

The agreed terms of undertaking and consent provide a comprehensive level of protection for the public in the increasingly less likely event of a relapse. In terms of the ongoing treatment at paragraph 3 of the Undertaking and Consent document, all measures listed are agreed by the parties to be covered by the term "medical treatment" in section 46 of the Act. Assuming adverse findings at the conclusion of a formal Inquiry, the Committee did not consider that any sanction that might follow would achieve anything more in terms of protecting the public or sending out an appropriate message to [REDACTED] or to the wider profession.

Continuing the Inquiry process in these circumstances would be unnecessary. It would inevitably be stressful for [REDACTED] More importantly, it would not achieve anything further in terms of the functions of the PSI in safeguarding the public and supporting pharmacists in their pursuit of high standards within that context.

Signed:

A handwritten signature in blue ink, appearing to read 'John O'Malley', written in a cursive style.

John O'Malley – Chairperson

Dated:

28/1/22

APPENDIX A

Proposed Undertakings

1. To undertake not to repeat the conduct the subject of the complaint, namely not to consume alcohol whilst on duty as a pharmacist, not to attend for work as a pharmacist whilst under the influence of alcohol, not to leave a pharmacy unattended without making arrangements for suitable professional cover and not to misappropriate medications from a pharmacy that are not prescribed for [REDACTED]
2. To consent to be censured by the Council.
3. To undertake to engage in the following medical treatment at all times whilst on the register of pharmacists until such time as [REDACTED] indicates that [REDACTED] does not need to comply with same any further:
 - a. To attend with [REDACTED] Consultant Psychiatrist, at such intervals as are recommended by him and to follow any recommendations made by him as to treatment for alcohol dependence syndrome and as to such testing and/or monitoring as [REDACTED] may deem necessary from time to time;
 - b. To consent to the provision of a report by [REDACTED] to the PSI at six monthly intervals setting out the current treatment regime recommended by him for [REDACTED]
 - c. To undertake to be reviewed by [REDACTED] on an annual basis and to the provision of a report by [REDACTED] to the PSI following this review;
 - d. To attend AA meetings on a regular basis;
 - e. To attend Fellowship meetings on a regular basis;
 - f. To attend individual counselling as they may be recommended by [REDACTED] and
 - g. To consent to the Registrar informing [REDACTED] Superintendent Pharmacist and/or Employer of these undertakings.