IN THE DISTRICT COURT OF

NEW SOUTH WALES

MEDICAL TRIBUNAL

No 40013/04 and 40022/04

THE MEDICAL PRACTICE ACT 1992

IN RE **DR ANDREW KATELARIS**

DEPUTY CHAIRPERSON JUDGE A PUCKERIDGE QC

MEMBERS DR SARAH MARES

DR KEITH EDWARDS

MS GERI ETTINGER

DATE OF DETERMINATION **15 DECEMBER 2005**

Pursuant to Schedule 2 clause 6 of the Medical Practice Act 1992 no publication is to be made of the names of the patients, or of any material capable of identifying them

The Tribunal has conducted an enquiry into complaints regarding the professional conduct of registered medical practitioner, Dr Andrew Katelaris.

In a statutory declaration dated 28th January 2003, the Deputy Registrar of the New South Wales Medical Board, Anne M. Scahill,

stated that the New South Wales Medical Board complained to the Health Care Complaints Commission that Dr Katelaris may be guilty of unsatisfactory professional conduct, as Dr Katelaris is in breach of a number of the conditions imposed on his registration.

In a complaint of the 2nd August 2004 the Health Care Complaints Commission complained the respondent had been guilty of unsatisfactory professional conduct and/or professional misconduct within the meaning of section 36 and section 37 of the Act. The particulars of that complaint were:-

1. During the period January 1999 to January 2002, the practitioner inappropriately prescribed and/or administered schedule 8 narcotic medications including Pethidine, Morphine, Ordine, Kapanol, Endone, and Durogesic to Patients A, B, C, D, E, F and G on the dates and in the quantities shown in schedule A, B, C, D, E, F and G when such patients were family members or friends of the practitioner.

2. During the period December 2000 to January 2002 the practitioner inappropriately prescribed a schedule 4D drug Ketamine to patients D and E on the dates and in the quantities shown in Schedules D and E and in circumstances where:-

a) the patients were friends of the practitioner,
b) for a purpose not in accordance with recognised therapeutic standards of what is medically appropriate,
c) outside a hospital setting,
d) without specialist medical advice or consultation.

3. During the period May 2000 to January 2002 the practitioner inappropriately prescribed the schedule 8 narcotics and a schedule 4D drug, Ketamine, to patients D and E on the dates and in the quantities shown in schedules D and E in circumstances where the practitioner was unable to properly perform the role of treating general practitioner to Patient D and/or E having regard to the geographic remoteness of the practitioner's residence and usual workplace from Patient D's and E's respective homes, and the serious nature of Patients D and E's medical conditions.

4. Between about March 2000 and January 2002 the practitioner self administered approximately 20 ampoules of Ketamine including about 3 ampoules on or around 19 January 2002.

5. Between about January 1999 and January 2002 the practitioner self administered Endone, Morphine and/or Pethidine.

6. Between about December 2000 and January 2002 the practitioner improperly diverted supplies of a schedule 4D drug, Ketamine, obtained on prescriptions issued by the practitioner in the names of Patients D and E.

7. Between about January 1999 and January 2002 the practitioner improperly diverted supplies of Endone, Morphine and/or Pethidine obtained on prescriptions issued by the practitioner in the names of Patients A, B, C, D, E, F and G and/or on doctor's bag orders for his own use.

8. The practitioner failed to notify the Health Department of the loss/destruction of the practitioner's drug register for the period March 2000 to January 2002 in breach of Clause 118 of the P&TG Reg 2002 (cf cl 120 of P&TG Reg 1994).

The respondent appeared for himself at the enquiry. In his opening remarks to the Tribunal, Counsel for the complainant stated that in regard to particular 7, the allegations of the complainant would be limited to patients C, D, E and G.

The complainant stated that it was not proceeding with Complaint Two of the 2nd August 2004.

The Tribunal enquired of the respondent as to the nature of his reply to the complaint of 2nd August 2004.

On 10th May 2005 the respondent said:-

a) As to particular 1 of the complaint he agreed the schedule 8 narcotic medications were administered but he disputed that the drugs were inappropriately prescribed. He said he disputed the particular.
b) As to particular 2, he 'certainly prescribed it to the two now deceased patients' and that he would be 'presenting evidence from experts in pain control and the published literature as to the appropriateness of that prescribing'.
c) As to particular 3, the question to be determined by the enquiry was whether the practitioner inappropriately prescribed the Schedule 8 narcotics and a Schedule 4D drug Ketamine to patients D and E.

d) That particular 4 was correct but that there was a dispute as to the quantity of the Ketamine self administered.
e) That he denied particular 5.
f) As to particular 6, the question for the enquiry was whether or not he 'improperly diverted the supplies'.
g) As to particular 7, that there were one or two elements of truth in the particular. The respondent was informed that the Tribunal would continue the enquiry on the basis that particular 7 was not admitted.
h) As to particular 8, that it was correct and that he did fail to notify the Health Department of the destruction of his drug register.

The enquiry also considered a complaint of 25th September 2004, that the respondent had been guilty of unsatisfactory professional conduct and/or professional misconduct in the particulars referred to in the complaints. An amendment sought and allowed resulted in the inclusion of a Particular 5 to Complaint Two of the complaint of the 25th September 2004.

The complaint with the amendment was filed and initialled by the Deputy Chairperson on 10th May 2005.

The particulars of Complaint One of the complaint of the 25th September 2004 were:-

1. Between about October 2002 and about September 2004 the practitioner inappropriately supplied cannabis (a prohibited drug under schedule 1 of the *Drug Misuse and*

Trafficking Act, 1985,) to various persons for the purported control of symptoms of illness;

(a) without prior approval of an ethics committee or an authority granted by the New South Wales Department of Health,

(b) without establishing or following a clinical trial protocol, and/or

(c) without seeking specialist medical advice or consultation.

Complaint Two of the complaint of 25th September 2004 was that the respondent had been guilty of unsatisfactory professional conduct and/or professional misconduct within the meaning of section 36 and section 37 of the Act in that the practitioner had contravened conditions to which his registration was subject.

The particulars of Complaint Two were:-

1. On 13 November 2003 the Medical Board imposed the conditions set out in attachment 1 on the practitioner's registration, pursuant to s. 66 of the Medical Practice Act.
2. Between 16 May 2002 and September 2004 the practitioner self administered cannabis in breach of condition 8 (not to self administer any substance detailed in schedule 1 of the Drug Misuse and Trafficking Act, 1985).
3. The practitioner failed to provide urine samples when required to do so, in breach of the Condition 5 (to undertake random urine drug testing in accordance with the Board's protocol), on the following dates: 18 and 30

December 2003, 16 January, 12 February 2004, 17 and 26 March, 14, 28 and 30 April, 10 May, 4 and 25 June, 6, 9, 15 July, 4, 11, 19 and 27 August and 14 September 2004.

4. The practitioner purportedly treated various persons with cannabis in breach of Conditions 1 and 2 (to work only in a hospital position approved by the Board and not to undertake solo general practice work, respectively).
5. Between 12 August 2004 and 8 December 2004 the practitioner breached Condition 6 in that he failed to attend for review on a three monthly basis the Medical Board nominated Psychiatrist, Dr Nick O'Connor.

As to particular 1 of Complaint One of the Complaint of 25th September 2004 the practitioner stated that in view of a letter dated 1st October 2003 from himself to Professor Michael Fearnside of the Medical Board of New South Wales, he could not deny that he supplied cannabis to various persons for the purported control of symptoms of illness. He denied that he 'inappropriately' supplied cannabis and stated that he would be presenting evidence to show that the supply of cannabis may have been particularly appropriate and 'in fact in the patients' best interests'.

The Tribunal proceeded on the basis that the practitioner did not admit that any supply of cannabis was without prior approval from an ethics committee or an authority granted by the New South Wales Department of Health or that the supply occurred without establishing or following a clinical trial protocol.

The practitioner denied that any supply of cannabis occurred without him seeking specialist medical advice or consultation.

As to particular 2 of Complaint Two of 25th September 2004, the practitioner admitted that he self administered cannabis in breach of condition 8 of the conditions imposed by the Medical Board on 13 November 2003.

The practitioner was informed that the Tribunal would consider there was still a need for proof that such self administration was in breach of condition 8 of the conditions imposed by the Medical Board.

As to particular 3, the practitioner stated that it was true that he did not provide urine samples, in breach of the conditions of his Medical Registration. He stated that there were a number of reasons for such failure, and that he did provide scientifically valid alternative methods for assessing compliance with the Board's conditions, in particular, hair sample analysis.

The respondent denied particular 4 of Complaint Two of the 25th September 2004.

The respondent denied particular 5 of Complaint Two of the complaint of 25th September 2004.

The Tribunal is required to consider each of the particulars of complaint upon which the complainant relies. The Tribunal is

required to be satisfied on the balance of probabilities that the particular breaches have occurred. The gravity of the questions to be determined and of the consequences flowing from a particular finding requires the Tribunal to be comfortably satisfied on the balance of probabilities that the complaints are established. See Bannister v Bannister 1993 30 NSWLR 699; Health Care Complaints Commission v Litchfield (1997) 41 NSWLR 630.

The Tribunal must determine whether each particular on which the complainant relies has been established to the requisite standard of proof and, if so, whether that amounts to a breach of sections 36 or 37 of the Act.

Section 36 (1)(a) of the Medical Practice Act defines 'unsatisfactory professional conduct' to include any conduct that demonstrates lack of adequate knowledge, skill, judgement, or care by the practitioner in the practice of medicine. Subparagraph (c) ss(1) includes within the meaning of that phrase any contravention by the practitioner (whether by act or omission) of a condition to which his or her registration is subject. Also included within the phrase unsatisfactory professional conduct is any other improper or unethical conduct relating to the practice or purported practice of medicine. (See paragraph (m) of subsection (1) of section 36).

Section 37 of the Act provides that for the purposes of the Act professional misconduct of a registered medical practitioner means unsatisfactory professional conduct of a sufficiently serious nature

to justify suspension of the practitioner from practising medicine or the removal of the practitioner's name from the Register.

In considering whether or not the respondent has been guilty of unsatisfactory professional conduct the Tribunal needs to consider the quality of the acts of the respondent claimed to demonstrate a lack of adequate knowledge, judgement or care in the practice of medicine, or said to constitute improper and/or unethical conduct related to the practice of medicine. The Tribunal also needs to consider the quality of the contraventions by the respondent of conditions to which his registration was subject. (See Health Care Complaints Commission v A Medical Practitioner 2001 NSWCA 158).

The degree of seriousness of the acts upon which the complaint relies, if found proved to the requisite standard of proof, is to be considered in determining whether unsatisfactory professional conduct amounts to professional misconduct.

In Pillai v Messiter (1989) 16NSWLR 197, Kirby P stated that 'professional misconduct' includes such a departure from accepted standards as to 'portray indifference and an abuse of the privileges which accompany registration as a medical practitioner'.

In determining whether or not a respondent was guilty of unsatisfactory professional conduct and/or professional misconduct the Tribunal took into account the background to the complaints against the respondent.

Dr Katelaris first came to the attention of the NSW Medical Board in 1988 after his schedule 8 authority was withdrawn due to self administration of opiates. The self administration was for non-medical reasons and the schedule 8 authority was voluntarily withdrawn effective 31 May 1988.

Application was made in 1989 and 1990 for restoration of Dr Katelaris' schedule 8 authority. Each of the applications by Dr Katelaris was not granted.

Dr Katelaris failed to keep undertakings he gave the Board regarding his opiate use, which resulted in a professional standards committee being held in November 1990. The professional standards committee referred the matter to a Medical Tribunal.

In March 1991 the Medical Tribunal found Dr Katelaris guilty of professional misconduct and suspended him from practice for a period of 12 months. The Tribunal directed that the respondent's schedule 8 authority remain withdrawn and that upon recommencement of his practice of medicine that he only practice in a hospital or in a position approved by the Medical Board of New South Wales for a period of 12 months.

Professor Champion had first seen Dr Katelaris in 1990 in respect of an inflammatory rheumatic syndrome. Professor Champion, in a report of 17 March 2003, states that the inflammatory joint disease was particularly painful, requiring anti-inflammatory

medication. The type of medication required by Dr Katelaris has been the subject of discussion with Dr Champion over the years.

The Court of Appeal rejected the appeal of Dr Katelaris on the determination of the Medical Tribunal in March 1991 and he was suspended for twelve months commencing 15 March 1991.

On 3 March 1992 the respondent underwent surgery for a spinal disc lesion with right-sided radiculopathy. There was an acute exacerbation of the right radicular pain which required admission to St Vincent's Hospital on 13 June 1992. He was treated at the hospital with dexamethasone and analgesia, including Pethidine.

The respondent's schedule 8 authority was restored effective 17 August 1992 with restrictions that the respondent could not take possession of any drug of addiction and could not issue a prescription for a drug of addiction other than to authorise the administration of a drug of addiction to a patient at the Sydney Adventist Hospital. The respondent was at that time working at the Sydney Adventist Hospital.

Subsequently the respondent's schedule 8 authority was fully restored effective 8 October 1993. Prior to that date all conditions relating to Dr Katelaris' employment were removed as from 18 August 1993.

The respondent had since 1998 been involved in research into the industrial uses of cannabis. Following the operation for the disc lesion in 1992 the respondent was provided a small amount of

cannabis for the relief of pain. The cannabis was not provided by any registered medical practitioner.

The respondent found cannabis to be of assistance for the relief of pain following the operation in 1992 and also found that the cannabis halved his Morphine intake [see letter dated 17 May 2004 to the Healthcare Complaints Commission behind Tab 6 of Exhibit M].

The respondent wrote a report of his experiences and sent a copy to a number of persons including the Attorney-General. The respondent sought consideration to be given to the modification of current laws to facilitate the conduct of clinical trials regarding the medical use of cannabis.

Dr Katelaris claims that after a copy of the report had been furnished to the Attorney-General he was charged with a criminal offence. On appeal to the District Court the offence was found proved but no conviction was recorded.

On 14 January 2002 the Pharmaceutical Services Branch of the New South Wales Health Department received a report in relation to an empty packet of Pethidine being seen at the home of Dr Katelaris in January 2002, which was labelled in the name of someone other than Dr Katelaris. An investigation followed and Dr Katelaris was interviewed by officers of the Pharmaceutical Services Branch in Gladesville on 8 August 2002.

On 19 January 2002 Dr Katelaris was admitted to the Emergency Department at Hornsby Ku-ring-gai Hospital. According to the records of the hospital Dr Katelaris stated that he had been self-injecting Ketamine since September / October 2001 in order to cope with personal problems. He was discharged from the hospital later that same day.

In March 2002 the NSW Medical Board received advice from Northern Sydney Area Health of the details of the admission of Dr Katelaris to Hornsby Hospital.

An impaired Registrants Panel was convened in May 2002 at which time voluntary conditions were placed on Dr Katelaris' registration. The conditions to which Dr Katelaris voluntarily agreed included a condition not to prescribe for self-medication and not to self administer any substance detailed in schedule 4 or 8 of the NSW Poisons List, or schedule 1 of the Drug Misuse and Trafficking Act. The respondent was also to notify the Board of any instance of illness requiring the administration of the medications referred to in the voluntary conditions.

The conditions to which Dr Katelaris agreed did not include a condition that Dr Katelaris attend for regular urine testing.

In August of 2002 the Director of the Pharmaceutical Services Branch of the NSW Health Department, forwarded to the Registrar of the Medical Board the investigating officer's report of 13 August 2002 and a copy of the transcript of the interview held with officers of the Pharmaceutical Services Branch on 8th August 2002.

In the interview with the Pharmaceutical Services Branch in August 2002 Dr Katelaris admitted to writing and collecting prescriptions for a number of schedule 8 drugs for certain persons.

Following receipt of the report from the Pharmaceutical Services Branch, Dr Katelaris was the subject of a Board review of 13 September 2002. At that review the issues raised in the Pharmaceutical Services Branch report of 13 August 2002 were discussed with Dr Katelaris. Following the review, the conditions voluntarily agreed to by the respondent on 16 May 2002 remained unchanged.

Throughout 2003 the respondent continued to be reviewed by Board nominated psychiatrists. He was seen initially by Dr Jonathan Phillips and then by Dr Nick O'Connor. Dr O'Connor was of the view that there was compelling evidence that Dr Katelaris had indulged in problematic abuse of restricted substances, including at different times, Morphine, Pethidine and Ketamine. It was the recommendation of Dr O'Connor that Dr Katelaris' professional behaviour was best dealt with within a disciplinary framework rather than an impairment model and that there be some objective testing of his compliance with Board conditions such as random drug screening.

In a report dated 3 March 2003 to the Medical Board, Dr Phillips expressed surprise that Dr Katelaris was not having regular urine drug screening. In that report Dr Phillips noted that the respondent had said to Dr Phillips that he was critical of his medical

assessment at Hornsby Hospital and that his self-treatment with Ketamine was justifiable in the circumstances.

In August 2003 the Health Committee of the New South Wales Medical Board resolved that Dr Katelaris be referred to a Section 66 Inquiry specifically to look at the issue of urine testing.

An inquiry pursuant to section 66 of the Medical Practice Act 1992 was held by the New South Wales Medical Board on 17 September 2003. The inquiry was convened to determine whether any action should be taken, either suspending or placing conditions upon the practice of the respondent.

As at September 2003 Dr Katelaris was a Career Medical Officer at the Royal North Shore Private Hospital. He worked seven twelve hour day shifts, had a week off, then worked a further seven twelve hour night shifts. He stated to the Panel that he was interested in furthering his development in oncology and palliative care.

The Panel noted the past history of the respondent's rheumatoid arthritic joint condition and discussed that condition with Dr Katelaris. Dr Katelaris informed the Panel that he was, as of that time, very well and had remained so for over twelve months. He said he felt more active and was paying particular attention to the maintenance of his health. He said he exercised regularly and that the only medication he took was medication to prevent gout.

At the Section 66 Inquiry, in discussing the report of the Pharmaceutical Services Branch, Dr Katelaris stated that he had self administered Ketamine for pain control as a result of a flare up of his rheumatoid condition. He said he did not consult a general practitioner regarding pain management and that appointments with Professor Champion were difficult to obtain as the Professor was booked six months in advance. Dr Katelaris also stated that that in February of 2003 he had had an episode of shingles and had arranged for self-treatment. He said that he did write a prescription for himself as he felt this was an emergency and was therefore justified. On this occasion he also did not consult a general practitioner.

The panel discussed with Dr Katelaris the conditions of his registration. Dr Katelaris denied any self administration of a schedule 4 or schedule 8 drug since the ingestion of Ketamine in January of 2002.

It was emphasised strongly to Dr Katelaris that he must consult his treating general practitioner and/or his treating specialist rheumatologist if he experienced any symptoms which required reassessment and treatment with medications.

Dr Katelaris was informed that following the Section 66 Inquiry action could be taken to place further additional conditions on his registration with particular reference to urinalysis or drug screening. The Panel took the view having regard to the recommendations of Dr Jonathan Phillips and Dr O'Connor that urine screening was desirable.

Dr Katelaris was advised that an additional condition would be placed on his registration requiring him to submit to random urinanalysis. The Panel considered this should continue for at least six months and that Dr Katelaris would be the subject of a Board review after six months had elapsed. The Panel did not consider that suspension in the circumstances was appropriate given that there were no complaints against Dr Katelaris regarding patient care.

The Panel considered a letter of 1 October 2003 from Dr Katelaris in which he stated that he was absent from Sydney every second week and that such absences presented difficulties so far as urine testing was concerned.

In its determination of 13 November 2003 it is stated that the Panel canvassed the possibility of Dr Katelaris notifying the Board in advance of his absences. The Panel considered that the integrity of the Board's urine testing programme would be compromised if it was to be applied in the way suggested by Dr Katelaris and an exception should not be made.

In the determination of 13 November 2003 it is stated that Dr Katelaris would have to make arrangements, as and when required by the Board, to provide urine samples. If this was not done the Board could not be satisfied that the practitioner was compliant with his conditions.

The determination by the Panel of 13 November 2003 concludes by stating that Dr Katelaris was advised of his right to appeal against the decision pursuant to section 95 of the Act.

Following the Section 66 Inquiry the respondent had a review interview on 14 January 2004. In their report it was noted that there were several occasions on random urine drug testing that cannabis metabolites were present. It was also noted that the respondent had failed to give specimens on 18 and 30 December 2003.

At the interview on 14 January 2004, the reviewers were informed that the respondent had just received a copy of the Health Care Complaints Commission complaint. The report states that the reviewers informed the respondent that they had not received a copy of the complaint and it was not relevant to their review.

The Tribunal is required to consider each of the particulars of the complaints on which the complainant relies. The respondent was advised that the Tribunal was required to be satisfied on the balance of probabilities that the particular breaches relied upon by of the complainant have occurred.

The respondent was advised that the gravity of the questions to be determined and the consequences flowing from a particular finding require the Tribunal to be comfortably satisfied on the balance of probabilities that the complaints are established.

The Tribunal must determine whether each particular on which the complainant relies has been established to the requisite standard of proof, and if so, whether that amounts to a breach of sections 36 or 37 of the Medical Practice Act.

The Tribunal considered each of the particulars of the complaints.

The complaint of 2nd August 2004.

Particular 1.

Particular 1 of the complaint was pressed only in respect of patients C, D, E and G.

The prescribing schedule to patient C is behind tab 68. Copies of the prescriptions are also behind the tab and are for Pethidine. Patient C gave evidence before the Tribunal. Her evidence was that at times during the period January 1999 to January 2002 she had been in a relationship with the respondent. In a statement which became exhibit C, patient C stated that during the period from about July 2001 to approx January 2002 she and the respondent resided together at Bayview and at North Turramurra.

Whilst she and the respondent were residing at North Turramurra she stated that she found an empty packet of Pethidine ampoules with her name on them. She confronted the respondent as to whether he had used the Pethidine and he said, ‘yes’. She stated that she also asked whether he had done this before and he replied ‘once or twice’.

In her statement Patient C said she had contacted a pharmacy and enquired as to whether or not the pharmacy had ever dispensed Pethidine in her name. The pharmacy advised her that it had occurred but declined to give any further information. Exhibit F is prescriptions for Pethidine for patient C. C states that at no time were these prescriptions administered after a consultation or a discussion with the respondent except for one occasion in November 2001. She further stated that she had never seen the prescriptions before 3 May 2005 and that the originals were never in her possession.

The occasion in November 2001 was when the respondent administered Pethidine intravenously, C stated the respondent gave her two doses approximately half an hour apart. She also said she did not check the drug being given and did not keep any residual Pethidine or any other ampoules.

In her evidence Patient C said that she could not tolerate narcotics because of her blood pressure. She said that the Pethidine was administered at the residence of her daughter and son in law. She said that either she or her daughter had phoned the respondent because she had a migraine and the respondent came over to the premises at Glebe and administered the Pethidine. She said she had never been given Pethidine intravenously before.

Patient C said that she had never seen the prescription of 28th November 2001 which is part of exhibit F. She had only previously received a photocopy of that prescription.

The respondent disputes that Patient C did not keep any residual Pethidine or any other ampoules. The respondent said that he left the balance of the 3 ampoules he prescribed with patient C. The respondent also claims that C knew that she was being injected with Pethidine and had in fact requested such medication.

Dr Bunker in his report of 28 November 2003 stated that it was inappropriate for the respondent to be treating a patient with whom he was in a close sexual and personal relationship. Dr Bunker was of the opinion that this was an example of the respondent not accepting conventional standards of professional behaviour which discouraged providing primary medical care to a family member, partner or spouse.

Dr Bunker was also severely critical of the respondent's practice of managing the medical problems of friends and partners when such person's medical problems involved the use of narcotics which were often obtained by the respondent. Dr Bunker also noted the inconsistencies in the accounts of how much was prescribed and collected and how much a particular patient ultimately received.

The Tribunal considers that the possibility that the respondent kept the residual Pethidine for his own use cannot be discounted. However the Tribunal considers that it remains a possibility only. Nevertheless, the Tribunal considers that such a possibility reinforces the conventional standards that medical practitioners not treat a patient with whom such medical practitioner is in a close

sexual and personal relationship and the need to keep proper records as to medications prescribed.

The Tribunal considers that the respondent inappropriately prescribed and/or administered Pethidine to patient C in November 2001, because of the nature of his relationship with patient C; his inadequate knowledge as to the blood pressure of patient C; and his failure to properly record the amount of Pethidine administered to patient C.

In respect of the prescription of 25th August 2001 patient C said that around that time she had suffered an injury whilst on a farm but did not require narcotics and never requested Dr Katelaris to issue Pethidine to her about that time. She also said she never received any Pethidine about that time. Patient C said that she never received any Pethidine as prescribed in the prescription of 21September 2001.

As patient C never required and never received the Pethidine prescribed in the prescriptions of 25th August 2001 and 21st September 2001 the Tribunal is comfortably satisfied that the Pethidine was inappropriately prescribed.

The respondent admitted that he prescribed and/or administered schedule 8 narcotic medications to patients D, E and G. He denied that the medication was prescribed and/or administered inappropriately. The Schedule to complaint in respect of patient D is behind tab 72. The prescriptions for 14/12/01 and 11/1/02 and

15/1/02 are for Pethidine. The prescription for 15/1/02 is for Durogesic.

In his evidence the respondent stated that for the last few days of his life, patient D was hospitalised. The respondent said he was unaware of how long patient D was in hospital prior to his death. The respondent said he was aware that patient D was under the care of a number of other medical practitioners. On the evidence before the Tribunal the respondent prescribed Pethidine for patient D whilst patient D was in hospital and under the treatment of other medical practitioners.

The respondent said that he could not be sure whether he himself used the Pethidine he prescribed for use by patient D.

On further questioning the respondent denied personally using the Pethidine prescribed for patient D.

It is submitted on behalf of the complainant that the Tribunal should not accept the respondent's denial that he used the Pethidine prescribed for patient D. The Tribunal does not consider it necessary to consider the submission. The Tribunal is satisfied that the prescribing of Pethidine to patient D in circumstances where he was under the care of other medical practitioners was inappropriate.

As to patient E, the schedule in relation to the narcotics prescribed is behind tab 74. In his evidence the respondent admitted that on 30th May 2001 he issued a prescription for 5 amps of Morphine

which he collected from a Pharmacy referred to as McDonald's Pharmacy on 1 June 2001. Patient E died on 30th May 2001. Prior to his death he was hospitalised at Coffs Harbour.

In circumstances where no permission was sought from hospital authorities to administer Morphine to patient E, the Tribunal considers that the actions of the respondent were inappropriate.

The respondent denied that he self administered the Morphine that he had prescribed for patient E. He said that the drug now had no appeal to him. Without determining whether or not the respondent self administered the Morphine, the prescribing of the Morphine to patient D when the patient was in hospital was inappropriate.

Dr Bunker stated that patients who are terminally ill or who require narcotic analgesics for chronic pain need consistent often multi disciplinary care coordinated by a medical practitioner who is available and who has the professional skills and setting to deliver this complex care. Whilst recognising the respondent's desire to help his friends Dr Bunker is critical of the conduct of the respondent which he considered showed that the respondent did not recognise the inappropriateness of providing narcotic analgesics to patients D and E in these circumstances. Dr Bunker was of the opinion that the respondent should have directed the patients to appropriate other providers of care.

Patient G is a family member. The schedule as to the drugs prescribed for Patient G and the prescriptions are behind tab 77. The respondent admitted [transcript 21/7/05, page 194] that in

August of 2000 he was using Pethidine prescribed in the name of Patient G.

The Tribunal is satisfied that particular 1 of the complaint has been proved to the requisite degree of proof.

The Tribunal considers that the respondent's actions constitute improper and/or unethical conduct related to the practice of medicine.

Particular 2.

Particular 2 asserts inappropriate prescribing of a schedule 4D drug Ketamine on the dates and in the quantities shown in the schedules to patients D and E. The schedules for patients D and E are behind tabs 73 and 74 of exhibit L.

The respondent admitted that the drug was prescribed for patients D and E, (now deceased), but submitted that the prescribing was appropriate for pain control.

The respondent said that he was a friend of both patients D and E. He agreed that the drug was prescribed in circumstances where both patients were outside a hospital setting, and that he did not seek specialist medical advice or consultation prior to prescribing the drug.

The respondent called evidence from the wife of patient E. It was her opinion, based on her observations, that the medication

prescribed by the respondent for her late husband had a beneficial effect.

Dr Jeremy Bunker, in a report of 28 November 2003, considered that the use by the respondent of the schedule 4D drug Ketamine on patients for whom it was inappropriate for the respondent to be the primary carer was inappropriate behaviour and behaviour of which he was severely critical.

Dr Bunker was moderately critical of the prescribing and administering Ketamine to patients D and E. Dr Bunker stated that Dr Katelaris' intention to help friends in the terminal phases of their disease was laudable, but that the respondent was not appropriately placed to help and that he ought more appropriately have encouraged his friends to find a suitable general practitioner locally to provide advice and referral.

Dr Bunker stated in his report that Ketamine is indeed used in hospital settings but notes that in such places specialist advice and multidisciplinary support is available and is used only after patients have undergone comprehensive assessment.

On the evidence of the wife of patient E the respondent prescribed Ketamine outside of a hospital setting and without specialist medical advice or consultation.

The Tribunal considers that the prescribing of Ketamine to patients D and E, outside of a hospital setting and without specialist

medical advice or consultation, was not in accordance with recognised therapeutic standards of what is medically appropriate.

The Tribunal is satisfied that the complainant has established this particular to the requisite degree of proof.

Particular 3.

This particular overlaps with particular 2.

The Tribunal accepts the submission of the complainant that the schedule 4D drug Ketamine was prescribed on the dates and in the quantities shown in the schedule in circumstances where the practitioner was unable to properly perform the role of a treating general practitioner to the patients having regard to their geographic remoteness. The evidence establishes the geographic remoteness of patients D and E and their serious medical conditions.

The respondent did not consult with either patient for several weeks at a time. In his evidence the respondent stated that he would not see patient E for two or three weeks. He admitted that patient E was under the care of a number of other doctors and that he had to rely on patient E or patient E's wife as to the particular medication being prescribed to patient E by the treating practitioners. The respondent made no attempt to contact or communicate with the treating practitioners.

The Tribunal accepts the submission of the complainant that neither patient E nor his wife was in a position to inform the respondent what treatment patient E was receiving nor of any possible contraindications for the prescribing of Ketamine.

The Tribunal is satisfied that the complainant has proved this particular to the requisite degree of proof.

Particular 4.

The respondent admits that he self administered approximately 20 ampoules of Ketamine between about March 2000 and January 2002.

Although the respondent denied that he self administered 3 ampoules of Ketamine prior to his admission to Hornsby Hospital on 19th January 2002, he conceded the did self administer the drug prior to his admission to the hospital.

Whilst the respondent disputes the quantity of the Ketamine he self administered, he admits to such self administration. Dr Bunker, in his report of 28 November 2003 states that the usual standard is that doctors are usually discouraged from self prescribing. He states that this practice is based on the need for objectivity in diagnosis, management and prescribing that may be compromised if a doctor prescribes for himself or herself.

It was the opinion of Dr Bunker that the majority of his peers of good repute would be strongly critical of Dr Katelaris' practices of

self prescribing medications of the type and the amount described in the schedules to the complaint, even in the absence of the conditions of his registration.

This particular has been established by the complainant to the requisite degree of proof.

Particular 5.

The respondent denied that between January 1999 and January 2002 he self administered Endone, morphine and/or Pethidine.

The respondent admitted to the self administration of Endone and Pethidine. [See transcript of 21 July 2005, page 194]. He conceded that his conduct in this regard was illegal.

The Tribunal is satisfied that the complainant has proved to the requisite degree that between about January 1999 and January 2002 the respondent self administered Endone and Pethidine.

The Tribunal accepts the submission of the complainant that the self administration of schedule 8 drugs without any supervision demonstrates a lack of judgement and/or care in the practice of medicine.

Particular 6.

The evidence establishes that prescriptions for the schedule 4D drug ketamine were issued by the practitioner in the names of

patients D and E and not dispensed to the patients prior to their respective deaths. The respondent, in his evidence, said that he was uncertain as to what happened to the drugs obtained for patients D and E.

The Tribunal accepts the submission of the complainant that the diversion of the drug prescribed for the patients D and E was improper and unlawful under the Poisons and Therapeutic Goods Legislation.

The Tribunal is satisfied that the complainant has proved this particular to the requisite degree.

Particular 7.

Particular 7 refers to improper diversion of Endone, morphine and/or Pethidine for patients C, D, E and G and on doctor's bag orders for his own use.

Dr O'Connor was of the view that the respondent had indulged in problematic abuse of restricted substances, including at different times, morphine, Pethidine and ketamine. The respondent has denied the use of Morphine in the period between January 1999 and January 2002 and the Tribunal is unable to be satisfied that he diverted supplies of morphine on prescriptions issued by him and on doctor's bag orders for his own use.

The evidence establishes that between about January 1999 and January 2002 the respondent diverted supplies of Endone, and/or

Pethidine obtained on prescriptions issued by the practitioner in the names of C, D, E and G and on doctor's bag orders for his own use.

Dr Bunker in his report of 28th November 2003 stated that he was of the opinion that the majority of his peers of good repute would be strongly critical of the respondent's practice of self prescribing medications of a type and in the amount described in the various accounts of his prescribing as forwarded to Dr Bunker.

Dr Bunker further stated that the respondent with a known history of inappropriate use of narcotics, and therefore a greater risk of further such inappropriate use, must have been aware of these prevailing attitudes, and should have been even more aware of the need for caution in self prescribing.

The Tribunal is satisfied that the diversion of supplies of Endone, and/or Pethidine obtained on prescriptions issued by the practitioner in the names of C, D, E and G and on doctor's bag orders for his own use was improper.

The Tribunal is satisfied that the complainant has proved this particular to the requisite degree of proof.

Particular 8.

The respondent admitted that he failed to notify the Health Department of the loss/destruction of his drug register for the period of March 2000 to January 2002.

Dr Bunker was mildly critical of the respondent's failure to notify the Health Department of the loss of the drug register as he was of the opinion that most general practitioners would be unaware of the particular requirement.

The respondent admitted that he was aware of the relevant regulation. The respondent deliberately chose to ignore his obligations to notify the Health Department of the loss / destruction of his drug register for the period of March 2000 to January 2002.

The Tribunal is satisfied to the requisite degree that the complainant has proved this particular.

Conclusions as to the complaint of the 2nd August 2004.

The respondent has admitted to the self administration of Endone and Pethidine obtained on prescription in the names of other persons.

The Tribunal notes that such self administration occurred after a Medical Tribunal found the respondent guilty of professional misconduct regarding his opiate use.

The complainant has submitted that the conduct of the respondent demonstrates deceit. The Tribunal considers that the prescribing of the narcotic drugs Pethidine and Endone for other persons when, in fact, the drugs were intended for his own use does demonstrate deceit.

The Tribunal accepts the evidence of Dr Bunker that medical practitioners of good repute would be critical of this conduct. Dr Bunker is also critical of the conduct of the respondent in the self administration of the drug Ketamine.

Dr Bunker was severely critical of the respondent's consistent practice of managing the medical problems of friends particularly as their medical problems involved the use of narcotics and other medications which were often obtained by the respondent and it was difficult to ascertain how much was prescribed and collected and how much the patient ultimately received.

The Tribunal finds that the respondent by his conduct as shown in particulars 1, 2, 3, 4, 5, 6, 7 and 8 of the complaint of 2nd August 2004 is guilty of unsatisfactory professional conduct in that he has demonstrated a lack of adequate judgement or care in the practice of medicine and/or engaged in improper and/or unethical conduct related to the practice of medicine.

The Tribunal considers that the prescribing of narcotic drugs for other persons when in fact the drugs were intended for his own use, and the prescribing of narcotic drugs to friends and others for whom he was not the primary carer, demonstrates such a departure from accepted standards as to portray indifference and an abuse of the privileges which accompany registration as a medical practitioner.

The Tribunal finds that the unsatisfactory professional conduct as found by the Tribunal is of a sufficiently serious nature to amount to professional misconduct.

Complaint One of the Complaint of 25th September 2004.

In evidence before the Tribunal the respondent admitted that between October 2002 and September 2004 he supplied cannabis to various people for the control of symptoms of illness. He said he supplied cannabis to about a dozen people. Many were very ill, and/or disabled. Some were terminally ill.

The respondent admitted that he supplied the cannabis to these people knowing that it was in contravention of the Drug Misuse and Trafficking Act. The respondent said he knew that in supplying the drug that there was a risk of being prosecuted for the unlawful supply of a prohibited drug.

The respondent conceded he had no legal authority to supply cannabis to persons for medical use. He also said he had no authority from the New South Wales Department of Health to administer the cannabis to any such persons.

The respondent claimed a moral authority to administer the cannabis to the patients. He said he supplied the cannabis out of practical and compassionate considerations. He said it was important to bear in mind that many of the patients were procuring cannabis for themselves on the black market.

The respondent took issue with Counsel for the complainant as to whether he had established or was following a clinical trial protocol. He said (page 47, transcript 19 July 2005) that he was involved in a pilot study aimed at demonstrating that with simple technology you could produce a non smoking form of cannabis that was medically effective. If that was demonstrated then such a study could go towards the running of clinical trials.

The Tribunal is satisfied that on the evidence before it, there was no written clinical trial protocol in respect of the respondent's supply of cannabis to various persons.

The respondent stated that he discussed with a Professor Cheshire, now deceased, the therapeutic place of cannabis in the management of certain symptoms of illnesses. In his statement, exhibit 1, the respondent stated that he also discussed with others the medical use of cannabis, particularly with practitioners within the United Kingdom.

However, the respondent said that he acted on his own instigation and the idea was his. He also said that he experimented with various forms of the administration of cannabis to patients.

It is clear on the evidence that the respondent did not seek specialist medical advice or consultation prior to the supply of cannabis to various persons in the period from about October 2002 to about September 2004.

The Tribunal is satisfied that the complainant has proved complaint one of the 25th September 2004 to the requisite degree of proof.

Complaint Two of the Complaint of 25th September 2004.

Particular 1.

Particular 1 simply states that conditions were placed on the respondent's registration following the Section 66 Inquiry. The respondent said in evidence before the Tribunal that whilst he agreed to the conditions he considered that he had no other option but to agree.

The Tribunal notes that the respondent was advised of his right of appeal against the determination of the panel constituting the Section 66 Inquiry. The Tribunal rejects the assertion of the respondent that he was not so advised.

Particular 2.

Particular 2 relates to the self administration of cannabis by the respondent between 16 May 2002 and September 2004 in breach of condition 8 of the conditions of his registration.

The respondent admitted that particular 2 is true. In his statement to the Tribunal, (exhibit 3), the respondent stated that that he had been involved in researching the industrial and medical uses of

cannabis. He states that after learning the legal codes he became aware that it was possible to grow an otherwise prohibited plant for the purposes of scientific research under section 23(4)(b) of the Drugs Act (sic). He stated a licence under section 23(4)(b) was at some stage issued to him and the first cannabis hemp trial was undertaken in collaboration with Armidale University in 1996. In subsequent years trials were conducted in cooperation with Goulburn City Council, using treated effluent irrigation and on private farms at Crookwell, Holbrook and Quirindi.

The statement, exhibit 3, refers to the efforts made by the respondent to have the medical use of cannabis legalised.

The respondent states that his personal use of cannabis was for the relief of pain resulting from an acute spinal disc prolapse which he suffered in 1992. He said that as a result of the pain from the disc prolapse he was prescribed morphine. He states that use by him of cannabis halved his morphine dose. As a result he wrote a brief report of his own experience and sent a copy to various members of Parliament (including the Attorney General) requesting that the medical profession be permitted to further investigate the medical use of cannabis.

The respondent states that it was following his report to such persons that he was charged with a criminal offence.

The respondent has stated that he has continued to use cannabis. He has stated that with a combination of physical therapy and low dose sub-lingual cannabis tincture he now leads an active lifestyle

with no restrictions on his mobility. He has stated in exhibit 3 that if the Tribunal feels strongly about the issue he would cease the use of cannabis and seek a different therapeutic strategy.

The respondent said that in the year 2004 he used cannabis on occasions on a weekly basis. He said he sometimes used cannabis daily and when a tincture was not available also smoked cannabis.

The Tribunal is satisfied that particular two of complaint two has been proved to the requisite degree of proof.

Particular 3.

Particular 3 relates to the failure by the respondent to provide urine samples when required to do so in breach of condition (5) of his conditions of registration.

Condition (5) was placed on his registration following the Section 66 Inquiry. The respondent was advised of his right of appeal. The respondent disputes that he was so advised. The Tribunal accepts that the determination of the 13th November 2003 correctly states that he was advised of his rights of appeal.

At a review interview on 14th January 2004 it was noted that the respondent had failed to provide urine samples on 18th and 30th December 2003.

In an affidavit of 10th May 2005 by the Registrar of the New South Wales Medical Board, Mr Andrew Dix, states that that the respondent did not provide urine samples on the following dates: 18 and 30 December 2003, 16 January 2004, 12 February 2004, 17 March 2004, 26 March 2004, 14, 28 and 30 April 2004, 10 May 2004, 4 and 25 June 2004, 6, 9 and 15 July 2004, 4, 11, 19 and 27 August 2004, and 14 September 2004.

The deponent states that the respondent was required to provide urine specimens on each of the dates referred to in the preceding paragraph.

The Tribunal is satisfied that the complainant has proved particular three of complaint two to the requisite degree of proof.

Particular 4.

Particular 4 relates to the respondent treating various persons with cannabis in breach of conditions (1) and (2) of the conditions of his registration. Those conditions relate to the requirement that the respondent work only in a hospital position approved by the Board and not to undertake solo General Practice work.

The respondent said that the persons that he treated with cannabis were suffering severe symptoms as a result of various illnesses. He considered that the cannabis assisted in the relief of the symptoms.

The respondent said that before supplying the patients with cannabis he first confirmed any diagnosis to ascertain whether there were any contraindications for the persons using cannabis and in particular to exclude any possible drug interaction. After obtaining this information and determining whether or not there could be a drug interaction he would then take what he referred to as a 'proper history'. The respondent said he undertook these enquiries in respect of each patient prior to supplying the patient with cannabis.

The widow of patient E said in evidence that the respondent had prescribed a number of different medications for her late husband, including several boxes of Pethidine, at least one box of morphine and a number of other medications.

The respondent said that all of the patients approached him for advice on the safe use of cannabis or on alternative methods. He said that without exception there was a detailed discussion of dosing regimes because depending of the nature of symptoms the dosage could be high or low. He said there were lots of different dosage patterns and each person was an individual and the discussions were detailed and notes were taken. He said in relation to the notes that were taken he had destroyed such notes.

The respondent said that he was aware of obligations under the Medical Practice Act to retain patient treating notes. He said that he destroyed the notes so that the patients could not be identified. He denied he had undertaken solo General Practice work.

Dr Bunker in his report, notes that the need for medical practitioners to keep records of prescribing practices is to record the clinical condition of patients in terms of history and examination, diagnostic conclusions reached, a management plan, drugs prescribed, together with notations about the indication, dose, use and precautions etc.

The Tribunal considers that the respondent's failure to retain patient treating notes was inappropriate. The Tribunal considers that such notes would indicate that the respondent was treating various persons with cannabis.

The respondent maintained that he understood that a consultation involved the payment of a professional fee. As he was not paid for supplying cannabis to the persons who came to him to seek advice the respondent maintained that he was not undertaking solo General Practice work.

The Tribunal considers that the respondent in taking a detailed history from the patients, determining the diagnosis and any possible drug interaction if cannabis was supplied to the patient, constitutes solo General Practice work.

The Tribunal considers that the complainant has proved particular 4 of complaint two to the requisite degree of proof.

Particular 5.

Particular 5 relates to a breach by the respondent of condition 6 of the conditions of his registration. Condition (6) required the respondent to be reviewed by a Board nominated psychiatrist at three monthly intervals.

At a review interview on 8 December 2004, the respondent admitted that he had not seen the Board nominated psychiatrist, Dr O'Connor.

In the review interview report (which is behind tab 5 of exhibit M) it was noted that Dr O'Connor was the second psychiatrist to review the respondent on behalf of the Board. He was previously reviewed by Dr J Phillips. The respondent stated at the review that he had received advice that Dr O'Connor would be a hostile witness at the Medical Tribunal hearing and not to attend upon Dr O'Connor. He further stated that seeing Dr O'Connor was a meaningless exercise.

The Tribunal considers that the complainant has proved particular 5 of Complaint Two to the requisite degree of proof.

Dr Bunker states in his report that the failure of the respondent to act in according with the conditions of his registration indicated to him that either a lack of insight into the nature of his problems, or a conscious decision not to comply with the conditions of his registration. Either of the reasons for non compliance Dr Bunker considered disturbing but he was only moderately critical of his failure to meet the conditions of his registration in this regard.

The respondent deliberately chose not to see Dr O'Connor as he had received advice not to do so.

The Tribunal does not consider that the failure by the respondent to see Dr O'Connor in the circumstances amounts to conduct which could be classified as unsatisfactory professional conduct.

Conclusions as to Complaint of 25 September 2004.

The Tribunal has received a number of testimonials from medical practitioners as to the general competence of the respondent. The Tribunal accepts that there has been no complaint made of the respondent in respect of his work at the hospital.

At the interview on 8 December 2004, Dr Katelaris expressed the opinion that he saw random urine testing as a significant imposition on him, as the Board was aware that he was in the country every second week and it was inconvenient for him to find an appropriate supervisor there. He said he saw the Board's actions as an act of malice and that the Board members were a 'malevolent bunch of arseholes'. He said that he had initially complied for three months and believed that that should have been enough.

The review report [8 December 2004] also states that Dr Katelaris said that it was his belief that being called before a Medical Tribunal was a malevolent act aimed to destroy his family and his finances, again referring to the Board as a 'bunch of malevolent

shits'. He also stated that he hoped to use the Tribunal to arrange wide media publicity of his research work on cannabis.

The reviewers stated that Dr Katelaris did not accept that the Board had a statutory duty to protect the public and in that context had the ability to impose conditions on a practitioner in order to ensure that they continue to practice safely. It also noted that Dr Katelaris refuses to regularly submit to drug testing monitoring by the Board, and that Dr Katelaris submits that his compliance to conditions is conditional on the basis that the Board accept his proposals for monitoring. The report states that the practitioner wished to undergo urine testing on alternate weeks but noted that such a proposal could not corroborate abstinence.

Dr Bunker in a report of 28th November 2003 stated that the standard that doctors not self prescribe arises out of a concern and a principle that doctors have access to standards of health care available to the rest of the community. He stated that trivial breaches of the standard are common with doctors prescribing, for example, antibiotics for their own respiratory tract infections.

The Tribunal considers that complaint one, and particulars 1, 2, 3 and 4 of complaint two of the complaint of 25th September 2004 as found proved, demonstrate a lack of adequate judgement or care in the practice of medicine and/or improper and/or unethical conduct related to the practice of medicine.

The Tribunal finds that the respondent is guilty of unsatisfactory professional conduct.

The respondent considered that he would only abide by conditions imposed on his registration if he considered the conditions to be reasonable. He has flagrantly disobeyed the conditions of his registration. Those conditions were not lightly imposed and the Tribunal does not consider that conditions imposed on a practitioner's registration should be lightly treated.

The Tribunal considers that the breaches by the respondent of the conditions of his registration is a grave criticism of the respondent in his practice of medicine.

The Tribunal also considers that knowingly being involved in providing a prohibited drug to persons is improper and/or unethical conduct in the practice of medicine and is conduct which attracts the severe disapproval of the Tribunal.

The Tribunal considers that the flagrant disregard by the respondent to the conditions set out in Attachment 1 on the practitioner's registration pursuant to section 66 of the Medical Practice Act is conduct which amounts to such a departure of accepted standards as to portray indifference and an abuse of the privileges which accompany registration as a medical practitioner.

The Tribunal finds that the conduct of the respondent as found proved in complaint One and particulars 1,2,3,and 4 of complaint two of the complaint of 25th September 2004 is of a sufficiently serious nature as to constitute professional misconduct.

Appropriate Order.

The complainant has submitted that the professional misconduct of the respondent is of a sufficiently serious nature to remove the name of Andrew Katelaris from the Register.

The Tribunal notes that particulars 1, 2, 3, 4, 5, 6 and 7 of the complaint of 2nd August 2004 relate to various periods between January 1999 and January 2002.

The respondent has flagrantly contravened the conditions of his registration imposed pursuant to s 66 of the Medical Practice Act. The respondent also admitted to deliberately stating falsehoods to the Pharmaceutical Services Branch in August 2002. The Tribunal considers that such conduct of the respondent shows a refusal to recognise ethical rules and obligations in relation to dealings with associated professional entities.

The respondent has continued to contravene the conditions to which his registration was subject. He has continued in his use of cannabis.

Dr Bunker was provided with a number of reports from Dr Phillips and a report of Dr Nick O'Connor of 8 August 2003. After reviewing such reports Dr Bunker was of the opinion that the respondent's lack of insight into the concerns raised by his behaviour was disturbing. He questioned the ability of the respondent to change his behaviour.

In his statements to the Tribunal, the respondent has made it clear that he proposes to continue to carry out research into the medical use of cannabis. The respondent shows no concern that he has no legal authority to carry out such research, and/or no approval from an ethics committee, or authority from the NSW Department of Health to supply cannabis to any persons.

The Tribunal accepts the submission of the complainant that the suspension imposed by the Tribunal in 1991 appears to not have led to any long-term salutary effect in relation to the respondent's use, self administration, and prescribing of narcotics. The Tribunal also accepts the submission of the complainant that the respondent has been dismissive of the law regulating the prescribing, recording, administration and dispensing of narcotics.

By his conduct the respondent has demonstrated a refusal to accept that he is bound by the same laws and restrictions that govern all other medical practitioners, and by ethical rules and obligations which all reputable practitioners would recognise as binding upon them. Such an attitude is incompatible with the retention of the privileges which attach to registration as a medical practitioner. The respondent has acted in deliberate defiance of legal restrictions and ethical standards of practice.

The Tribunal considers that the deliberate contravention of the law and legal restrictions in relation to the practice of medicine requires a strong response from this Tribunal in the proper exercise of its

protective jurisdiction. In the view of this Tribunal there can be no order other than an order for deregistration.

Section 155 of the Medical Practice Act provides that an order of the Tribunal takes effect on the day on which the order is made or on such later day as is specified in the order. This Tribunal considers that the order of this Tribunal take effect on the day on which the order is made.

This Tribunal also considers that no application for review should occur until after a period of three years from the date of the order for deregistration. On any such application for review there would be a need for the applicant to show a willingness to abide by conditions imposed upon him as to his practice and to abide by the law regulating the administration and prescribing of narcotics and the law generally. There would also be a need to demonstrate on any such review that he could exercise adequate judgment in the practice of medicine.

The previous Medical Tribunal considered that time was required for the respondent to reflect upon the necessity to conduct himself in a manner approved by his peers and not merely according to his own opinions of what is right and wrong.

This Tribunal considers that the conduct of the respondent demonstrates that he has not realised the need to conduct himself in a manner approved by his peers. This Tribunal considers the respondent is of the firm belief he is entitled to act according to his own opinions of what is right and wrong.

ORDERS.

The Tribunal unanimously makes the following orders:-

1. Andrew Katelaris [MPO 180932] is deregistered and his name is to be removed from the Register of Medical Practitioners of New South Wales.

2. The respondent is to pay the costs of the Health Care Complaints Commission.

3. Pursuant to Schedule 2 clause 6 of the Medical Practice Act 1992 no publication is to be made of the names of the patients, or of any material capable of identifying them.

4. A sealed copy of these orders and, when available, of the Tribunal's reasons for determination and orders are to be served by post on the respondent.

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Deputy Chairperson
Judge A. Puckeridge QC

Member
Dr S. Mares

Member
Dr K. Edwards

Member
Ms G. Ettinger