

MEDICAL TRIBUNAL OF NEW SOUTH WALES

DEPUTY CHAIRPERSON: **JUDGE J B SINCLAIR QC**
MEMBERS: **DR R BENN**
 DR C BERGLUND
 DR R GORDON

15 APRIL 1998

RE: DR JOSEPH ANTHONY GRAICHE and **the MEDICAL PRACTICE ACT,1992**

NON PUBLICATION ORDER: A non publication order in relation to the personal details of AB was made by the Chairperson of the Medical Tribunal on 3 August 2007.

REASONS FOR DETERMINATION

This Tribunal is charged with inquiring into a complaint of Professional Misconduct and/or Unsatisfactory Professional Conduct made by the Health Care Complaints Commission against the Respondent, Dr Joseph Anthony Graiche within the meaning of Sections 36 and 37 of the Medical Practice Act,1992.

Particulars of the complaint are as follows –

"During the period 21 March 1992 to 9 March 1993, the practitioner engaged in conduct which demonstrates a lack of adequate knowledge, judgment and care in the practice of medicine and engaged in conduct relating to the practice of medicine that is improper and unethical, in that:

1. The practitioner issued prescriptions for androgenic/anabolic steroids, commonly known as Deca-Durabolin 50mg ampoules, Sustanon 250mg ampoules and Primobolan 100mg ampoules, on the dates, to the persons and in the quantities shown in the schedule annexed hereto and marked with the letter it "A" without exercising responsible medical judgment.

2. The practitioner issued prescriptions for androgenic/anabolic steroids, commonly known as Deca-Durabolin 50mg ampoules, Sustanon 250mg ampoules and Primobolan 100mg ampoules, on the dates, to the persons and in the quantities shown in the schedule annexed hereto and marked with the letter " A in the absence of any appropriate clinical indication to so prescribe.

3. The practitioner issued prescriptions for androgenic/anabolic steroids, commonly known as Deca-Durabolin 50mg ampoules, Sustanon 250mg ampoules and Primobolan 100mg ampoules, on the dates, to the persons and in the quantities shown in the schedule annexed hereto and marked with the letter " A for a purpose not in accordance with recognised therapeutic standards of what is medically appropriate.

4. The practitioner issued prescriptions for androgenic/anabolic steroids, commonly known as Deca-Durabolin 50mg ampoules, Sustanon 250mg ampoules and Primobolan 100mg ampoules, on the dates, to the persons and in the quantities shown in the schedule annexed hereto and marked with the letter " A in quantities in excess of recognised therapeutic standards of what is medically appropriate.

5. The practitioner issued prescriptions for androgenic/anabolic steroids, commonly known as Deca-Durabolin 50mg ampoules, Sustanon 250mg ampoules and Primobolan 100mg ampoules, on the dates, to the persons and in the quantities shown in the schedule annexed hereto and marked with the letter " A when he knew or ought to have known that the substances so prescribed were being or were likely to be abused.

6. On or about 4 December 1992 and 11 March 1993, the practitioner issued prescriptions for Profasi ampoules to Raymond McDonald and Dean Tosswill respectively:

- a. in the absence of any appropriate clinical indication to so prescribe;
- b. for a purpose not in accordance with recognised therapeutic standards of what is medically appropriate;
- c. when he knew or ought to have known that the substances so prescribed were being or were likely to be abused.

7. In or about October 1992, the practitioner supplied and/or administered to Joseph Laus, George Metaxiotis and Joe Chalhoub androgenic/anabolic steroids in preparations intended for veterinary use, to wit:

- a. nadrolone, commonly known as "Deca 50";
 - b. bolderone and methandriol, commonly known as "Drive"; and/or
 - c. stanozolol, commonly known as "Stanazol";
- in the absence of any appropriate clinical indication to so prescribe.

8. In or about October 1992, the practitioner supplied and/or administered to Joseph Laus, George Metaxiotis and Joe Chalhoub androgenic/anabolic steroids in preparations intended for veterinary use, to wit:

- a. nadrolone, commonly known as "Deca 50";
 - b. bolderone and methandriol, Commonly known as "Driven; and/or
 - c. stanozolol, commonly known as "Stanazol";
- for a purpose not in accordance with recognised therapeutic standards

of what is medically appropriate.

9. In or about October 1992, the practitioner supplied and/or administered to Joseph Laus, George Metaxiotis and Joe Chalhoub androgenic/anabolic steroids in preparations intended for veterinary use, to wit:

- a. nadrolone, commonly known as "Deca 50";
 - b. bolderone and methandriol, commonly known as "Driven; andlor
 - c. stanozolol, commonly known as "Stanazol";
- when such preparation were not approved for human therapeutic use pursuant to the Therapeutic Goods Act 1989 (Cth).

10. In or about October 1992, the practitioner supplied and/or administered to Joseph Laus, George Metaxiotis and Joe Chalhoub androgenic/anabolic steroids in preparations intended for veterinary use, to wit:

- a. nadrolone, commonly known as "Deca 50";
 - b. bolderone and methandriol, commonly known as "Driven; andlor
 - c. stanozolol, commonly known as "Stanazol";
- when he knew that the substances so prescribed were being or were likely to be abused.

11. In or about November 1992, the practitioner attempted to obtain possession of androgenic/anabolic steroids in preparations intended for veterinary use, to wit:

- a. nadrolone, commonly known as "Deca 50 x 10 boxes;
 - b. bolderone and methandriol, commonly known as "Driven X 3 boxes; and
 - c. stanozolol, commonly known as "Stanazol" x 1 box;
- for the purpose of inappropriately supplying andlor administering such substances to patients.

A short summary of the complaint is that during the relevant period, 21 March 1992 - 9 March 1993, the respondent;

1. Prescribed androgenic/anabolic steroids, Deca-Durobolin and/or Sustanon andlor Primobolan to 8 patients at his general practice at Parramatta for the purpose of increasing muscle bulk; such prescriptions being:

- a. for an inappropriate purpose. Such medication being appropriate for conditions such as testosterone deficiency, osteoporosis and advanced breast cancer in women.
- b. in the absence of any clinical indication the patients suffered from such conditions.
- c. in excess of recognised therapeutic standards. Such as prescribing 2- or more of the steroids at one time and in quantities in excess of recognised therapeutic standards.
- d. in circumstances when he was aware or ought to have been aware the patient was in possession of such steroids and was using them for such purpose.

2. Prescribed Profasi ampoules to 2 patients inappropriately. Profasi is a human glycoprotein hormone the prescription of which, to men being treated concurrently with high doses of androgens, is inconsistent with legitimate medical practise.

According to steroid underground folklore the use of Profasi in such circumstances is to counteract some of the effects of the abuse of anabolic steroids.

3. In October 1992 the respondent purchased from a supplier of veterinary drugs, a quantity of anabolic steroids namely 2 x 10 mg Deca 50; 2 x 10mg Drive; and 2 x 20mg Stanazol which he supplied to patients at their request.

A second order for such veterinary drugs was placed by the respondent the following month but the supplier declined to meet the order when it became known the order was placed by a medical practitioner.

The Background to such Misconduct.

The respondent was born in July 1965, obtained his HSC in 1982 and commenced his tertiary education in the faculty of Medicine at the University of New South Wales the following year. In January 1988 he was entered on the Register of Medical Practitioners in New South Wales. Thereafter he served as an intern at the Prince of Wales/Prince Henry Hospital until the following year when he was a resident in the ENT division of Concord Hospital for 6 months. At university he obtained second class honours. During his 6 months at Concord Hospital he was regarded as a most outstanding young doctor. In August 1989 he commenced practice as a General Practitioner from his father's home, principally part time as a locum; and he attended some graduate courses including a Sports Injury Management course for two weeks at the University of New South Wales. He became conscious of the problem of the use of anabolic steroids, particularly by athletes and bodybuilders and to some extent, of the conflict of opinion as to the propriety of prescribing such drugs. It is apparent he adopted the philosophy of Dr Anthony Miller regarding the theory of "harm reduction". Upon commencing his general practice under contract to the Regency Medical Centre he assumed the title of Medical Director, being the only GP at the centre. He was anxious to build a reputation in sports medicine.

In December 1991 he came under the notice of Mr Bruce Battye of the Pharmaceutical Services Section in respect of his prescribing of schedule 8 drugs to persons known to the department as abusers of drugs of addiction. He was interviewed by Mr Battye on 19 December 1991 and counselled in respect of the tactics of addicts, the abuse of stimulants and other drugs including anabolic steroids and the need to prescribe, always, within normal therapeutic standards of what is medically appropriate. (The respondent asserts he does not recall such advice in respect of anabolic steroids.)

In December 1992 Mr Battye received information that the respondent had obtained some veterinary anabolic steroid injection from Naturevet Pty limited, manufacturers and suppliers of veterinary medicines. On 9 March 1993 Mr Battye and Mr Ken Thomson made inquiries at Gardiner's Pharmacy at North Parramatta and inspected records of prescriptions written by the respondent relating to anabolic steroids and there detected a number of prescriptions for anabolic steroids which appeared to be have been issued by Dr Graiche. Later that day, the two officers of the Pharmaceutical Services Branch, interviewed the respondent at his surgery.

In short the respondent admitted that he had prescribed anabolic steroids for six patients, for body building or self protection, and for another patient on a compassionate basis for weight training although he was said to be "in security". In respect of the invoice from Naturevet the respondent initially made a false statement, that he was using those steroids on experiments with ducks, but later said that he had given the drugs to "a few close friends whom he had seen in the clinic".

The complaint also refers to issuing prescriptions for Profasi ampoules to Raymond McDonald and Dean Toswell.

It is in respect of such prescriptions that the complaint was issued and amended on 12 September 1997.

The Evidence

At the commencement of the hearing it was stated by counsel for the respondent that all facts set out in the complaint are admitted, that the respondent admits that his conduct was wrong and that he now sees a fatal flaw in the philosophy under which he practised at the relevant time.

Nevertheless he submits that all patients were monitored and supervised, and they were people who were going to use steroids whether under medical supervision or not and had access to black market steroids. This response on behalf of the respondent to the complaint was foreshadowed in correspondence between his solicitor and the Health Care Complaints Commission in November 1994.

A short summary of the evidence adduced by the complainant is as follows - A large folder of documents was admitted by consent as Exhibit 1. It includes comprehensive statements of Mr Bruce Battye, Pharmaceutical Adviser, Pharmaceutical Services Section of his inquiry in relation to this complaint including a table of the 8 patients to whom the respondent prescribed anabolic steroids including Deca Durobolan, Sustanon and Primobolan. A record of the interview between Mr Battye and the respondent, taken by Mr Thomson, a Pharmaceutical Adviser of the Pharmaceutical Services Section on 9 March 1993. In the course of the record of interview it is recorded, inter alia, that the respondent said –

"I sometimes get up to 50 requests a week for anabolic steroids and I have to, decide. I try to avoid bodybuilder groups and pick the group that specifically requires guidance. They will get it on the black market anyway. So the people in that line of work I try to treat".

In respect of the dosage he said it was "based on experience with the response to this particular drug. For my personal experience of prescribing it. Also a lot of them will come straight over from Dr Miller's practice saying that that's what they've been getting."

Q. When these people come to you do they nominate what they want?

A: Sure. All the time but it has no influence on what I prescribe. I prescribe in a way which is responsible. The dosage in my opinion is the difference between getting an effect and not getting an effect. That's how I justify the doses.

Of the supply of veterinary steroids he said initially -
"I was doing a project on ducks. Looking at using anabolic steroids on ducks to see the effect."

Upon being pressed by Mr Battye to tell the truth the respondent said ultimately -
"that was when my friends - no acquaintances - said it was worth \$100.00 on the black market and I said "that's ridiculous". I wanted to help them. They twisted my arm enough so I sold it for what it cost me."

Q: Look there are a number of matters involved here. Your prescribing of anabolic steroids, the proper therapeutic stuff, appears to me to be in excess of normal therapeutic standards. You were already warned about that previously.

A: But I understood that you were specifically noting body builders which I agreed with.

Photostat copies of the clinical records of the respondent relating to the patients concerned and of the prescriptions written by the respondent. Correspondence between Mr Battye and Naturevet ply Limited in respect of the veterinary anabolic steroids purchased from the company.

A statement from Dr J McGuinness of the Therapeutic Goods Administration of the Commonwealth to the effect that Deca50, Drive and Stanzol are not registered as therapeutic goods approved for human consumption. A statement of AB which outlines the circumstances of meeting the respondent in his surgery in 1992 or 1993 when his football team had their annual medical tests at the Regency Medical Centre.

He says he informed the respondent that he had previously received courses of Primobolan and Anapol tablets and injectable DecaDurobolan and that he wanted to get back the benefits he had obtained before from such courses. He says interalia that at the end of the course of steroids prescribed by the respondent, Dr Graiche told him he had to take a drug to help his body recover from the steroids, particularly to help cut the recovery of his kidney function and that the respondent prescribed Profasi for him. He also says that -

"It was only because of the caring and common sense approach adopted by Dr Graiche that I was able to take steroids in a safe and monitored environment. I have undergone many blood tests and medical check ups to date and have not experienced one adverse effect from the administration of anabolic steroids. Dr Graiche convinced me not to use black market steroids because of the dangers involved . . .

Dr Graiche, in company with other medical practitioners such as Dr Tony Miller of the Lewisham Sports Centre, appear to be men with a common sense and successful approach to a serious problem yet their actions are being condemned by those who can't and won't understand. It is unfortunate that the medical authorities fall into this category."

Dr K J Crichton, an eminent member of the Sports Medicine Federation, provided a long report to the HCCC in which he concluded by saying –
"I would be severely critical of this practitioner's behaviour. The practice of this practitioner in his prescribing of those anabolic steroids would invite the disapproval of the general body of my colleagues."

He outlined 5 particular problems in relation to the conduct of the respondent namely-

- (i) Prescription of anabolic steroids, per se.
- (ii) Prescribing of veterinary anabolic steroids.
- (iii) Prescribing anabolic steroids and leaving the patient with medication to be administered by intra muscular injection where there was no control over how the injection might have been given.
- (iv) Continuing the prescription of anabolic steroids after receiving advice from his Medical Defence Union to stay away from that area.
- (v) Performing a series of tests, on Medicare, where there was no good reason for performing those tests.

Professor David J Handelsman, Director Andrology Unit, Royal Prince Alfred Hospital, provided a second report concerning the substance of the complaint against the respondent in which he reviewed individually the 8 patients who had been prescribed and supplied with anabolic steroids and also the patients who had been prescribed with Profasi and the philosophy of "harm reduction". He said interalia that the respondent's claim "to be following a harm reduction philosophy in prescribing anabolic steroids lacks any legitimate medical or even logical basis. In reality it appears more consistent with a post hoc rationalisation of a misguided or perhaps amoral practice of an unjustifiable prescribing practice".

He also dealt with, in a further report of 30 November 1993, the prescribing of veterinary products. He said -

"It almost goes without saying that veterinary products should not be supplied for human use by anyone let alone a medical practitioner."

Of the androgenic anabolic steroids prescribed by Dr Graiche he said that the Medical Boards of New South Wales, South Australia and Victoria have all recently ruled, and the New South Wales Department of Health reaffirmed, that the prescription of anabolic steroids for non medical purposes (including sporting, recreational or cosmetic) constitutes professional misconduct by a doctor. This judgment is strongly endorsed by Endocrinologists who have the most professional expertise with the use of androgens for legitimate medical implications. Body Building would certainly not be considered a legitimate medical purpose for prescribing anabolic androgenic steroids".

Copies of the relevant references to the steroids concerned taken from MIMS the IBS Annual 1993 in respect of the prescription of veterinary steroids.

A letter from the Director General of the New South Wales Health Department dated 16 January 1992 to the respondent confirming the advice given to him during the recent visit to his surgery of Mr Battye regarding the prescribing of drugs of

addiction. This letter does not specifically refer to the prescription of anabolic steroids.

Correspondence between the Pharmaceutical Services Section and the Health Care Complaints Commission and the respondent and his solicitors.

A number of articles concerning the use of drugs in sport including the second report of the Senate Standing Committee on environment, recreation and the arts.

Dr Crichton, Professor Handelsman gave oral evidence and Mr B L Battye gave evidence as to the substance of the counselling he gave to the respondent in December 1991 insofar as it related to the prescribing of anabolic steroids.

It is not necessary to review such evidence in any detail as the truth and reliability of such witnesses was not challenged.

The documentary evidence tendered on behalf of the respondent includes a long statement by the respondent.

An evaluation of the performance of the respondent when he was attached to Concord Repatriation Hospital - Resident Staff Report Form, in which it is said "Undoubtably the most outstanding resident I have ever had the pleasure of working with. Joseph is confident in every facet of medical and surgical care of both inpatients and outpatients. His enthusiasm and thrust for work is almost unbelievable. His standard of medical care was reported by consultants plus the nursing staff. Could we have him permanently?"

A short report from Dr Trevor Day, Assistant Medical Practitioner at Concord, said he always found the respondent to be obliging and active in his work. A certificate to certify the respondent has successfully completed a basic post graduate course in nutritional and educational medicine - 16 May 1992. A certificate to certify that he has attended a course in Sports Medicine, Health fitness and exercising clinical practice from 6 - 10 February 1989 and another in respect of prevention and management of sports injuries from 13-17 February.

A report from Dr Manu Benjamin of Sydney who said in summary "Joseph's distinguished himself as an individual who exhibits and ability to plan, organise and implement projects of varying complexities. He is a team player, who with a high degree of motivation, innovation and initiative can accomplish his goals" - 5 January 1994.

A report from Mr Buddy Gilwan, Diocesan Welfare Officer of the' Diocese of St Maroun who said in his opinion the respondent is an uncommonly good medical officer and that he demonstrated character traits which ensured this "It is my unconditional belief that Dr Graiche is an ethical, compassionate and extremely competent physician" - 12 January 1994.

A report from Dr David Watson, Australian Sports Medicine Federation, undated, accepting him for membership of the Federation and a short letter of 14 December 1994 from Dr Guaneoyeo, State Director of the Royal Australia College of General

Practitioners, regarding his supervision of trainees - "You have supervised for 13 week terms".

Further short letters from Dr Robert Cummings, Chair, Option Term Committee of the Faculty of Medicine of the University of Sydney, in which he states - "I want to thank you for supervising one of our students during option term".

From the Royal Australia College of General Practitioners Quality Assurance and Continuing Education Program to certify he fulfilled a 1993/1995 education requirements and, from the Australian College of Nutritional and Environmental Medicine Inc, 22 August 1996, informing the respondent had been successful in the recent fellowship exams and from the Board formally confirmed he is now a Fellow of the Australian College of Nutritional and Environmental Medicine.

The respondent's material also includes articles on drugs in sport, an article by Dr Anthony Miller on medical ways to tackle steroid abuse, an extract from the Medical Board Newsletter of 4 August 1993 which briefly summarises the case of a doctor who received a formal reprimand and was subject to conditions placed on his registration in respect of a complaint of prescribing anabolic-androgenic steroids without a legitimate medical purpose but rather to enhance physical development of persons involved in body building.

A brochure from the New south Wales Department of Health on anabolic and androgenic steroids and an article "Opinions Divided on Anabolic Steroids" by Patricia Knowlan in the Australia Doctor dated 9 July 1993 and finally a report of Dr David Quinn, St Vincent's Hospital, dated 19 March 1998 in which he concludes interalia-

1. That the use of veterinary AAS preparations in humans is not condoned by any medical or licensing Board in the world.
2. That most regular users of **AAS** have used veterinary steroids at some time.
3. That the respondents attempts at monitoring his patients were at best misguided and at worst wasteful.
4. That the report of Professor Handelsman is academically sound.
5. That there are several areas that any medical practitioner would have questioned about Dr Graiche's prescribing history, mainly -
 - a) prior to the events of immediate concern he was warned regarding the prescription of quantities of a number of drugs commonly used in an unsanctioned way.
 - b) He provided and prescribed a veterinary product for which information regarding action and side effects in humans was not available (Drive).
 - c) He prescribed drugs at patients' requests without medical indications and based on information supplied either by the patient or other identified sources (Profasi).
 - d) The assessment he undertook of the patients given androgenic anabolic drugs was ad hoc and with no scientific basis and served to consume a considerable amount of public funds in the form of Medicare rebates for pathology tests which had no indication.

In conclusion he said "I feel that Dr Graiche's prescription of AAS drugs cannot be condoned. He has been criticised by peers in general practice and sports medicine and this criticism is justified". However, his prescription of these drugs occurred -

1. In a setting where attitudes to drugs were brought into question in some sections of the medical profession and medical media.
2. At a time in his career when he was inexperienced in practice and immature in prescribing and when he had little concept of culture related to use of these drugs except through what he may have read.

Much time has elapsed between the incidents described and now. The major question in my mind is whether Dr Graiche has matured significantly to prevent repetition of similar occurrences and in particular whether he has now an appropriate network of mentors and/or colleagues with whom he might be able to discuss difficult clinical issues.

Conclusions

It is clear to us that there is no conflict in the evidence of the three experienced medical specialists who have provided reports and given oral evidence before this Tribunal.

Assessment of the Respondent's Evidence

The statement of the respondent is 27 pages and begins with a number of general observations and then sets out the history of his treatment of nine patients. He says that the incidents giving rise to the complaint occurred when he was in the first few years of unsupervised general practice. Patients approached him for advice regarding the use of anabolic steroid preparations, some were already on a regime of steroid usage supervised by medical practitioners, other were taking steroid preparations without medical supervision - obtaining the preparations from unknown sources.

He was not aware of any strict prohibition on the prescription of anabolic steroids for the purposes of weight gain, body building and performance enhancement. He was aware of the risks involved in the prescription of such steroids for other purposes other than those indicated in the MIMS. In the course of post graduate education in Sports Medicine in 1989 he had come across proponents of the "harm reduction" philosophy, namely that it was in the patient's best interest to be prescribed a 'known substance, under medical supervision, rather than taking an illegally purchased, unknown substance without any opportunity for monitoring by a medical practitioner.

He says his usual practice when approached by patients wanting advice in relation to anabolic steroids was to counsel them and advise them that steroid usage for the purpose of weight gain, body building and performance enhancement was inappropriate. He said he specifically advised many patients against the use of anabolic steroids for these purposes. He indicated there were side effects and potential dangers related to the use of anabolic steroids and discussed the side effects in detail. When, despite counselling, a patient indicated an intention to commence or continue anabolic steroid usage he agreed to monitor the patient

and/or prescribe the anabolic steroids in accordance with the "harm reduction" philosophy. Many patients accepted his advice and did not return. For every one patient he treated with anabolic steroids he said he turned away 10 - 15. He arranged an investigation of each patient including analysis of their hormone status prior to prescription and after the program was completed. He had in place, what he then believed to be, an effective monitoring system which included counselling, taking a thorough patient history, conducting an examination with particular emphasis on cardiovascular and endocrine systems. Investigation, where appropriate, was obtained and after completion of a course of anabolic steroids subsequent visits were used to assess the dosage regime and consider any side effects.

Veterinary steroids were obtained and supplied to two patients only, on one occasion. Both patients he said were in possession of significant information regarding the side effects. At the time he felt it was in the patient's interest to provide "a known substance under medical supervision due to the risk of taking an unknown substance". He was given the name of the manufacturer by one of the patients and ordered 2 ampoules of each of the drugs and supplied each of the patients with an ampoule (that is 10ml) of each substance which should have been injected in dosages of 1 - 2ml over a week. When the patients returned requesting a further supply he again asked one of his staff to contact the manufacturer and was advised they were not allowed to supply him with the drugs. He then contacted his defence Union and sought advice as to the legality of obtaining supplies of veterinary products and thereafter made no further attempt to obtain, supply or prescribe veterinary anabolic steroids for his patients.

The Patients

Joe Laus first attended the respondent on 11 July 1992 requesting vitamin supplementation. The patient presented with a history of self prescribed anabolic steroids for the purpose of muscular weight gain and performance enhancement. He said he was taking a "cocktail" or "stack" of anabolic steroids. Most of the substances were illicit. The patient exhibited characteristics of persistence and an unshakeable determination to achieve weight gain. He noted the patient was taking a cocktail, or stack, of anabolic steroids - said to be prescribed and administered by another medical practitioner. The respondent advised the patient to cease all anabolic steroids. Tests disclosed a reduction in the serum testosterone level for which he prescribe Andriol40mg. On 12 October 1992 the respondent decided that the most appropriate action would be "to provide a short course of a known substance of a known quality under close medical supervision". (The known substance was the veterinary steroids obtained in October 1992). During the following month a planned course of anabolic steroids was terminated due to a viral illness and when he recovered he was injected with Profasi. However further management of the patient became difficult as contrary to advice given the patient continued to self administer and self prescribe steroid regimes. Nevertheless the respondent felt it was better to continue to supervise the patient and provide psychological support and counselling. "From this point onwards (18.2.93) I refused to prescribe any anabolic steroids". Several months later he supplied the patient with Profasi (on five occasions in April and June 1993). In September 1993 the patient was again advised to cease all prescribed and non prescribed medication. He did not return to the respondent.

Raymond McDonald first presented himself to the respondent in August 1991 requesting a prescription of anabolic steroids under close supervision for performance enhancement bodybuilding. He was referred to a specialist, Dr Anthony Miller, and then returned to the respondent. After further counselling, examination and investigations the patient was commenced on a course of DecaDurobolan on 26 August 1991. The respondent says that he injected the drug into the patient, being a drug the patient himself supplied. He continued to administer the steroids until the course was completed on 29 October 1991. In July 1992 the patient returned for a further course of anabolic steroids and was initially commenced on DecaDurobolan 50mg and Sustanon 250mg as prescribed by the respondent. After two such injections the injections were confined to DecaDurobolan 50mg which was provided every week or two during July, August, September and October until the course was completed in November. On these 10 occasions the drug was prescribed by and administered by the respondent. In December Profasi was prescribed to help restore serum testosterone levels by stimulating endogenous production. After two injections of Profasi the patient was referred to another medical practitioner for future care in December 1992.

Luis Corrieri first consulted the respondent in May 1991 with a past history of partial gastrectomy and complaining of an inability to increase body weight. In October the patient attended the respondent requesting prescription of anabolic steroids under close supervision to increase figure and muscle weight. Primoteston 250mg was prescribed and administered and the patient was advised as to the need for improved diet and nutritional supplementations. After three injections the course ceased due to lack of perceived benefit by the patient.

Joe Chaloub was first seen by the respondent in September 1991 with complaints of chest pain, sore neck and insomnia and an acute low back injury. The following week he requested a prescription for anabolic steroids under close medical supervision for the purpose of enhancement and body building. Several attendances later, in November 1991, he was given a script for DecaDurobolan 50mg and Sustanon 250mg, and a further script for DecaDurobolan was prescribed on 24 November 1991.

George Metaxiotis was initially seen on 22 October 1991 with a history of self prescribed anabolic steroids for the purpose of muscular weight gain and performance enhancement. Most of the substances he had been using were illicit and the patient was not entirely aware of the implication. The patient seemed to be part of a sub-culture within society and was difficult to assess and understand. After been examined and tested he was asked to return in November for the commencement of a course of anabolic steroids and such were prescribed on the basis of harm reduction. That is, a known substance of known quality under the direct medical supervision and follow up. On 18 November he said he was unable to afford to purchase the prescription and inferred he preferred to take veterinary products because they were cheaper. He was strongly advised against this practice and counselled. It was apparent he was involved in self prescription of anabolic steroids made up of an assessment of veterinary products but unfortunately often of unknown quantities of even unknown substances. As the plaintiff persisted in seeking anabolic steroids after repeated warnings the respondent agreed to provide

him with veterinary anabolic steroids and on 27 October 1992 he was injected with 2ml of Drive. The respondent says –

"At the time I believed that it would be appropriate to provide a short course of a known substance of a known quantity under medical supervision."

The patient attended for injections of Drive on 4 occasions thereafter in November and at the end of that course of injections he commenced a course of DecaDurobolan which was completed on 15 December 1992. He attended on 3 other occasions for pathology tests and counselling and then was referred to another medical practitioner for future care.

Taimi Lokeni first consulted the respondent in July 1991 in relation to a skin rash. In January 1992 he requested a course of anabolic steroids and after counselling and lengthy discussion he decided not to proceed. However in January 1993 he again consulted the respondent requesting a prescription of anabolic steroids under medical supervision for the purpose of performance enhancement and body building. After several attendances and counselling the patient was provided with a script for DecaDurobolan 50mg per week and Sustanon 250mg. When last seen on 23 April he appeared to be well.

AB was first seen on 28 June 1992 for a stress test and ECG. He also requested a course of anabolic steroids for performance enhancing and bodybuilding. After examination and carrying out various investigations the patient was commenced on a course of injections of DecaDurobolan 50mg and Sustanon 250mg which was completed on 24 December 1992. When last seen by the respondent on 9 February 1993 the patient was complaining of a right arm injury and the respondent says he noted he was taking DecaDurobolan 50mg and Sustanon 250mg but this was not administered or prescribed by him.

Jamal Sabra was first seen by the respondent in October 1991 for hayfever. Later in February and September 1992 he consulted the respondent for superficial mycoses, impotence and lowered sex drive. On 8 September 1992, after counselling, he was prescribed Andriol and a fortnight later requested a prescription for anabolic steroids under medical supervision for the purpose of performance enhancement and body building. After counselling regarding the side effects the patient was then issued with a prescription and asked to return the following week for commencement of the course. Over the next 2 months he was prescribed DecaDurobolan 50mg and 9 repeats but after further counselling regarding anticipated psychological and physiological effects of reduced serum testosterone levels the patient decided to cease the course in October. He did not attend the respondent again.

Mr Dean Waters was first seen on 13 October 1992 and requested a prescription of anabolic steroids under close medical supervision for the purposes of performance enhancement and body building. He was examined and counselled and ultimately on 3 December was issued with a prescription for Sustanon with 6 repeats and directed to return to his LMO the following week for commencement of the course.

Dean Toss will first consulted the respondent in December 1992 with a request for a prescription of anabolic steroids under medical supervision .There was nothing of

significance in his past medical and family history. After examination and counselling that day he was issued with a prescription and asked to return the following week for commencement of the course. He attended the surgery on 8 occasions in January and February 1993 and was prescribed DecaDurobolan 50mg and Sustanon 250mg. The course was completed on 23 February 1993 and on 23 March pathology tests were found to be consistent with a reduced serum testosterone and serum uteinsing hormone secondary to excess exogenous testosterone. Profasi 1000iu was prescribed to help restore serum testosterone levels by stimulating endogenous production.

The respondent says that following the visit by Officers from the pharmaceutical. Services Branch in March 1993 he informed his patients and his staff that he is not interested in supplying or prescribing anabolic steroids and says -"I have had nothing to do with the supply or prescription of veterinary anabolic steroids or human anabolic steroids since that time."

Since then, he says, he has become aware of debate within the medical fraternity regarding the prescription of anabolic steroids for purposes other than recognised medical purposes and of criticism made of the "harm reduction" philosophy. He is no longer a supporter of that philosophy -"I realise that the prescription and supply of anabolic steroids to my patients was inappropriate".

In evaluating the respondent's statement and his subsequent oral evidence before the Tribunal we have come to the conclusion that it is difficult to accept the respondent as a wholly truthful and reliable witness for the following reasons -

1. His statement purports to be based on his clinical notes but it is not acomplete account of what is written in his clinical records. Some relevant entries in relation to the prescription and administration of steroids are omitted.
2. His statement abounds in exculpatory statements for which there is no basis in his clinical notes. At times in his evidence he asserts he has good recollection of his consultations with patients, in respect of exculpatory matters. At other times he resorted to saying he does not remember when ross examined about matters which do not go to his credit. For example he epeatedly asserts in evidence that he doesn't remember the warning given to him by Mr Battye about, interalia, the prescription of anabolic steroids.
3. He is loquacious to an extreme extent, he prevaricates in his evidence frequently. He repeats in respect of almost every patient that they "requested prescription of anabolic steroids under close medical supervision. The purpose of prescription was for performance enhancement and body building"
4. At page 21 of his statement he asserts - "At this point of the patient's management and considering the circumstances it was decided, that the most appropriate action would be to provide a short course of a known substance of a known quantity under close medical supervision." He is referring to the prescription of veterinary steroids. His reference to prescription of drugs under close medical supervision hardly accords with the evidence. He simply gave the patient the ampoule of 10ml and left it to the patient to decide how to inject those 5 doses.

5. He vehemently denies any "stacking". Nevertheless on many occasions he was prescribing DecaDurobolan and Sustanon at the same time although he purports to justify this on the basis that they were the same compounds.
6. His evidence that he prescribed on "empirical data" (See the record of interview page 5) is nonsense. He was prescribing on the basis of what the patients were doing.
7. His assertion that on many occasions he did not prescribe a steroid but nevertheless he injected it is very curious.

In short we find it is difficult to accept, without serious reservation, the truth and reliability of many parts of his statement. True it is he was a relatively inexperienced general practitioner, gullible, isolated, and without peer support. We are disturbed that he has exhibited, in the course of his evidence, a very poor medical knowledge and he appears to have had a substantial lack of insight into the difficulty he was creating for himself. As to his motivation, it is difficult to make any precise finding. The conclusion that he was well aware of the impropriety of what he was doing at the time and merely prescribing what the patients sought is supported to some extent by his lies to Mr Battye in respect of the veterinary prescriptions.

The Tribunal is comfortably satisfied that all particulars of the complaint have been proven and that such conduct by the respondent constitutes Professional Misconduct.

We have considerable reservation as to the level of the respondent's present insight as to his professional shortcomings and the level of his professional competence although it has only been under examination in respect of a relatively narrow field of the practice of a general practitioner.

Had these proceedings been brought before the Medical Tribunal with a reasonable degree of expedition rather than 5 years after the events occurred the appropriate order of the Tribunal, in the public interest, would have been to suspend the respondent for a period. However at this time we do not think that is appropriate.

The Orders of the Tribunal are -

1. That the respondent be fined the sum of \$10,000.00
2. That his registration be subject to the following conditions -
 - a. His practice of medicine be subject to the supervision of a general practitioner being a Fellow of the College of General Practitioners for a period of 2 years from today.
 - b. Such supervisor provide a report on the respondent's progress every three months to the Medical Board.
 - c. The respondent to be responsible for the costs of such supervision and reports.
 - d. The respondent be subject to random audit of his medical practice by a person appointed by the Medical Board each 6 months during the period of his supervision, and the respondent is to bear the costs of such random audits.