

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

Registered Pharmacist:	Audrey Kingston, MPSI
Registration Number:	7366
Registered Address:	[REDACTED] [REDACTED]
Complaint Reference:	514.2019
Dates of Inquiry:	24 th & 25 th March 2022
Status of Inquiry:	Public
Inquiry Committee:	Mark Kane – chair, non-pharmacist Valerie Beatty – non-pharmacist Rebecca Kilfeather, MPSI – pharmacist
Legal Assessor:	Patrick Leonard SC

Appearances Day 1 & 2:

For the Registrar: Neasa Bird BL
Instructed by: Aisling Ray of Fieldfisher Solicitors
In attendance: Caroline Murphy of PSI Legal Affairs
Avril McCabe of PSI Legal Affairs
Dena Keane of PSI Legal Affairs
Anna Malone of PSI Legal Affairs

For Audrey Kingston: Maria Dillon of Horan & Son Solicitors
In attendance: Audrey Kingston, MPSI

Witnesses heard: Lisa Parnell-Dunne
Keith O'Hourihane
Dr Jayant Sharma

Also present: Cormac Falvey, Technician of TrialView.
Niamh Kelly-Leahy, Stenographer of D. O'Malley
Stenography Ltd.

Documentation Considered:

Exhibit 1(a): Core Book (Amounting to 3 Lever-Arch Folders)
Exhibit 1(b): Report of Noel Stenson, MPSI dated 18th March 2022
Exhibit 1(c): Solicitor's Letter dated 22nd March 2022
Exhibit 2: Notes dated 18th April 2019 and 16th August 2019
Exhibit 3: Statement of Kieran Parnell
Exhibit 4: Registrant's Draft Undertaking
Transcript: Day 1, 24th March 2022
Transcript: Day 2, 25th March 2022

1. Subject Matter of the Complaint

The PSI received information and a Complaint dated 9th May 2019 from Lisa Parnell-Dunne, in respect of concerns regarding Audrey Kingston's practise as a pharmacist. The Preliminary Proceedings Committee of the PSI, on 17th October 2019, having considered all information furnished to it in relation to the complaint of Lisa Parnell-Dunne, pursuant to Part 6 of the Act, did advise the Council of the PSI that there was sufficient cause to warrant further action being taken against Audrey Kingston, MPSI on the ground of poor professional performance within the meaning of Section 35(1)(b) of the Act, and the complaint was referred on 17th October 2019, by the Preliminary Proceedings Committee pursuant to Section 40(1)(b)(i) of the Act to the Professional Conduct Committee. A Notice of Intention to Hold an Inquiry dated 1st November 2021 was prepared setting out the specific allegations against Audrey Kingston, MPSI and was signed by the Chair of the Professional Conduct Committee.

2. Allegations

The allegations are contained in the Notice of Intention to Hold an Inquiry dated 1st November 2021 and the relevant portion recites:

That you, whilst you were a Registered Pharmacist and/or Supervising Pharmacist at Chemco Pharmacy, Supervalu Shopping Centre, Kellyville Centre, Portlaoise, County Laois ("the **Pharmacy**") on or about 11 April 2019:

1. Supplied and/or caused to be supplied and/or permitted to be supplied 14x Klacid Forte Euro IMBAT Ltd 500MG tablets (Clarithromycin 500MG) ("**Klacid Forte**") for Mrs Alice Parnell (now deceased ("**Patient A**")), in circumstances where;
 - a. You failed to counsel and/or advise Mr Kieran Parnell, the husband of Patient A, and/or Mrs Lisa Parnell-Dunne, the daughter of Patient A and/or ensure that Mr Parnell and/or Mrs Parnell-Dunne were counselled and/or advised adequately or at all, in respect of:
 - i) the potential interaction and/or therapy problems and/or therapeutic contraindications between Klacid Forte and Warfarin, which medication you knew or ought to have known was also prescribed for Patient A and was being taken at the relevant time; *and/or*
 - ii) the necessity for Patient A to have her international normalised ratio ("**INR**") checked more frequently while she was taking both Klacid Forte and Warfarin; *and/or*

- b. You failed to consult with Patient A's prescribing doctor prior to the dispensing of Klacid Forte for Patient A, about:
- i) the potential interaction and/or therapy problems and/or therapeutic contraindications between Klacid Forte and Warfarin; *and/or*
 - ii) any action which should be taken if an interaction or therapy problem or therapeutic contraindication occurs; *and/or*
 - iii) the necessity for Patient A to have her INR checked more frequently while she was taking both Klacid Forte and Warfarin; *and/or*

AND FURTHER by reason of one or more of the allegations and/or sub-allegations as set out at 1 above, either individually and/or cumulatively and/or in combination, you are guilty of poor professional performance in that you failed to meet the standards of competence that may be reasonably expected of a Registered Pharmacist.

3. Applications

In the afternoon of Day 2, at the conclusion of the Registrar's evidence, the Registrant's Representative made an application for the matter to be disposed of by way of undertaking with consent to admonishment or censure, this being done in the context of the Registrant's Representative having informed the Committee that "the fact of what happened has been readily admitted" by Audrey Kingston and a report in mitigation with accompanying letter had been submitted to the Committee. The Registrant's Representative made submissions that spoke to mitigation and submitted that the report of Noel Stenson, MPSI has addressed the practice of Audrey Kingston and in particular the measures that she has taken since this complaint to address any perceived deficits in her practice as a community pharmacist.

The Registrar's Representative submitted, in summary that "the Registrar isn't supporting the application for an undertaking but fully acknowledges that ultimately this is a matter for Committee". The Registrar's Representative explained that "the Registrar's case [is that] there is factual evidence and expert evidence which would support findings of poor professional performance being made in respect of the allegations in the Notice of Inquiry." The Registrar's Representative submitted that if the Committee were minded to seek an undertaking "the appropriate sanction to reflect the fact that there is evidence available to support findings would be a consent to censure."

The Committee then took legal advice from the Legal Assessor, which in summary was “although we are considering specific allegations against Ms Kingston, the backdrop to those allegations are the very sad events that ended up, and I am going to use those words, ended up in the death of a much loved wife and mother. And none of us can lose sight of that. We still remember, however, Dr Sharma's evidence which he gave, when he was asked whether the very high INR was part of the multifactorial process that led to that death, that Dr Sharma, his immediate response to that was that that was a very difficult question to answer. So certainly on the evidence there's no causal connection between the high INR leading to the death of Mrs Parnell, so I think the Registrar has accepted that, but we shouldn't, as all the people listening to the evidence, we shouldn't forget the very human tragedy that has taken place here. And that's perhaps important to remember and it's important that the family's legitimate concerns and complaints have been ventilated before this inquiry. And it's important for them, and for the public, to know that when complaints are made about these very sad events that they are dealt with seriously. With that said, we must also remember that the Oireachtas have decided in the Pharmacy Act of 2007 that not every inquiry must result in findings and not every inquiry must result in the imposition of a sanction by Council. ... In relation to the Pharmacy Act, that is a power which is considered in section 46. ... There's now a subsection (1)(a), although it is not a section, a subsection which makes a substantive change to it; it simply makes it clear that once an undertaking is accepted, that the inquiry is effectively over. So if we accept that the Oireachtas have decided and they're telling the Committee, if you like, that not every inquiry must proceed to the end ...

There will be inquiries where the Committee's view is that the conduct is so serious that the only appropriate sanction would be, for example, suspension or cancellation of the Registrant's registration. I am not in any way suggesting that this is one of those inquiries, but if you had an inquiry where the Committee took the view that the only option open was to cancel a practitioner's registration, well then clearly an undertaking would be inappropriate because it would stop the inquiry at a point before that could be reached. There's a countervailing public interest to the making of findings and the holding of inquiries in public, and that is the public interest in regulatory bodies dealing with complaints in a proportionate manner. And that's a factor where I think you take the interests of Ms Kingston into account. Having regard to the way she's approached the inquiry, what Mr Stenson says, her previous history, is it actually necessary, would it be proportionate to require findings to be made and a sanction to be

imposed where she's offering an undertaking and a consent to sanction? Because the public interest demands that regulatory bodies deal with the people that they regulate in a proportionate way. And if you think that it would be meeting the public interest and a proportionate approach to this case to accept an undertaking, the public interest points in that direction.”

The Registrar’s Representative and Registrant’s Representative did not take issue with the Legal Assessor’s advice. The Committee having heard the parties and having taken legal advice considered the application, submissions and advice privately and then decided to make a Section 46 request of Audrey Kingston and the Chair gave the following decision and reasons to the parties:

“The Committee have considered the application made to it by Ms. Dillon, the submissions on that application by Ms. Bird, for the Registrar, the evidence which they have received, and the advice given to it by the Legal Assessor. Having considered those matters, the Committee has decided, pursuant to the provisions of section 46 of the Pharmacy Act, 2007, to request that Ms. Kingston would give an undertaking in writing to the Committee and an oral undertaking in the following terms:

1. that Ms. Audrey Kingston, MPSI would not repeat the conduct to which the complaint relates, specifically that she will ensure to:
 - a) appropriately counsel and/or advise patients or their representatives when dispensing medication, in particular to counsel and/or advise on any potential interactions or contraindications; and
 - b) adhere to, and follow all Standard Operating Procedures in her workplace as they relate to her practice as a pharmacist.

2. that Ms. Audrey Kingston, MPSI will always carefully review any prescription presented in respect of any Warfarin patient, and where caution is indicated, that contact would be made with the prescriber prior to supplying or dispensing medicines to any Warfarin patient.

3. that Ms. Audrey Kingston, MPSI would not supply or dispense medicines to any Warfarin patient, or the patient's carer, without discussing the potential impact on the International Normalised Ratio (INR).
4. that Ms. Audrey Kingston, MPSI will continue to implement the changes and remedial measures introduced at Chemco Pharmacy, Portlaoise in respect of the isolation of any medications prior to hand-out, so that appropriate counselling is provided to Warfarin patients, and/or their carers.

In addition, the Committee also requests that Ms. Kingston consent to be censured by the Council of the PSI.

If Ms. Kingston is willing to so undertake, and to be censured by the Council, this inquiry will be completed, and the Committee will so report to Council.

In coming to its decision, the Committee considered that the public interest did not require that findings be made, and that the matter would go to Council, and considered that the undertakings offered, and the sanction of censure were sufficient to meet the public interest, and be proportionate. The Committee will provide a detailed report on its reasons to Council."

Being in receipt of the decision and Section 46 request the Chair asked, "Ms Kingston if she is willing to give those undertakings and to consent to being censured by the Council." To which the Registrant responded "Absolutely".

Audrey Kingston, MPSI affirmed and gave the undertakings and consent per the Committee's Section 46 request.

The Committee discharged Audrey Kingston, MPSI, having accepted the undertakings and consent under Section 46, pursuant to Section 46(1A).

4. Evidence and Submissions

The parties put into evidence the documentation and material listed. The detail of which parts of that evidence were brought to the Committee's attention is contained in the Inquiry's two days of transcripts. The Registrar called witnesses as listed and the detail of that evidence is contained in the Inquiry's two days of transcripts. The details of the submissions made are contained throughout the Inquiry's two days of transcripts.

5. Standard and Burden of Proof

The Committee applied the criminal standard in respect of all its findings. The Committee considered the Registrar bore the burden of proving all matters beyond a reasonable doubt.

6. Findings of the Committee

No findings are made as the Committee requested Section 46 undertakings and consent to being censured and was in receipt of same from Audrey Kingston and these were accepted by the Committee with Audrey Kingston being discharged and the Inquiry ending in that manner, pursuant to Section 46(1A) of the Act.

7. Recommendations of the Committee as to Sanction

No recommendation to Council as to sanction is made as the Committee requested Section 46 undertakings and consent to being censured and was in receipt of same from Audrey Kingston and these were accepted by the Committee with Audrey Kingston being discharged and the Inquiry ending in that manner, pursuant to Section 46(1A) of the Act.

8. Reasons of the Committee as to the Public Interest not requiring Findings and Recommendations to Council as to Sanction

In deciding that the public interest did not require that findings be made and that the matter need not go to Council, the Committee had regard to the need to be proportionate and fair whereby there was an absence of good reasons as to why Audrey Kingston, MPSI should be put through further stages of the public inquiry process through to a complete conclusion, followed by the wait for a report, followed by the wait for a date to appear before Council, and then the anxiety of appearing before Council, and all the related costs associated with these steps. The Committee were of the view that such an approach was unjustified and disproportionate where the regulatory result of protecting the public, sending an appropriate message to the public and pharmacy professionals as to the conduct in this case and the upholding of high pharmacy regulatory standards have been entirely met and vindicated by there having been a two day public inquiry, the Registrant taking remedial actions, including audit and study, giving undertakings as to future conduct and a consent to a Censure by the Council.

9. Statement of Section 46 Undertakings and Consent Given Under Affirmation to the Committee

Section 46(1)(a) and 46(1)(d) affirmed statement of Audrey Kingston, MPSI (7366):

“MS KINGSTON: So I start with point 1: So that I, Audrey Kingston MPSI, would not repeat the conduct to which the complaint relates, specifically that I will ensure to (a) appropriately counsel and/or advise patients or their representatives when dispensing medication, in particular to counsel and/or advise on any potential interactions or contraindication and (b) adhere to and follow all standard operating procedures in my workplace as they relate to my practice as a pharmacist.

No. 2, that I, Audrey Kingston MPSI, will always carefully review any prescription presented in respect of any Warfarin patient and where caution is indicated that contact will be made with the prescriber prior to supplying or dispensing medicines to any Warfarin patient.

3, that I, Audrey Kingston MPSI, would not supply or dispense medicines to any Warfarin patient or the patient's carer without discussing the potential impact on the Internationalised Normalised Ratio, the INR.

4, that I, Audrey Kingston MPSI, will continue to implement the changes and remedial measures introduced at Chemco Pharmacy Portlaoise in respect of the isolation of any medications prior to handout so that appropriate counselling is provided to Warfarin patients and/or their carers.

CHAIRPERSON: And the question I have for you is: Do you consent to being censured by the Council?

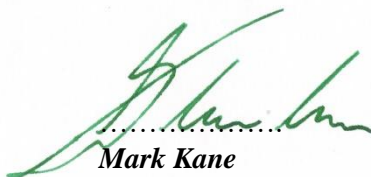
MS KINGSTON: I do.

CHAIRPERSON: Okay. Thank you very much.

So, that concludes your portion. Obviously, your solicitor will need to provide you with a written copy of that and you will sign it and then your solicitor will provide that to the PSI. In accordance with the Act and section 46, this inquiry is now concluded, and this Committee will write a report to Council of the PSI.”

And the Committee so reports to Council.

Signed:



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Mark Kane

Dated: 20th April 2022

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