



Report of the Professional Conduct Committee to the Council of the Pharmaceutical Society of Ireland in relation to a complaint made pursuant to Part 6 of the Pharmacy Act 2007.

Introduction - Summary Details

Registered Pharmacist: Marie Kelly

Pharmacist Registration Number: 4955

Complaint Reference(s): 442.2018

Date of Inquiry: 16 December 2025

Public/Private Hearing: Private

Meeting Format: Hearing at PSI House, Fenian Street

Members of Committee: Susan Ahern S.C, Chairperson
Conor McCrystal MPSI
Teresa Blake S.C.

Legal Assessor: Lorna Lynch S.C

Appearances:

For the Registrar: Eoghan O’Sullivan, B.L
Dena Keane, Solicitor, Fieldfisher LLP

For the Registrant: Michael Lanigan, Solicitor, Poe Kiely Hogan
Lanigan

Registrant in attendance: Yes

Other Attendees: Andrew O’Sullivan, Director of Esterville
Limited trading as Kelly’s Pharmacy
Deirdre O’Malley, D. O’Malley Stenography

In Attendance from the PSI: Ciaran Lyng, Solicitor, PSI
Olesea Bargan, PSI Legal Affairs
Clara O’Reilly, PSI

1. Subject Matter of the Complaint and Proceedings

The complaint was received on 14 February 2018 from Dr Martin Blake, Chief Veterinary Officer, Department of Agriculture in respect of Ms Kelly MPSI (4955). The complaint was referred by the Preliminary Proceedings Committee (the “PPC”) on 13 January 2022 on the grounds of professional misconduct and conviction within the State of an offence triable on indictment within the meaning of Section 35(1)(a) and 35(1)(g) of the Pharmacy Act 2007, respectively.

2. Allegations

The Allegations against the Registrant as set out in the Notice of Inquiry dated 10 September 2025 are:

That you, whilst you were a Superintendent Pharmacist and/or Supervising Pharmacist and/or Registered Pharmacist at Esterville Limited trading as Kelly's Pharmacy, Main Street, Miltown Malbay, Co. Clare (hereinafter referred to as the “Pharmacy”);

1. In or around 30 January 2013, had in your possession or under your control one or more of the animal remedies as specified in Appendix A, in circumstances where the labels in respect of one or more of those animal remedies had been altered in that the batch number had been tampered with; *and/or*
2. In or around 12 February 2013, had in your possession or under your control one or more of the animal remedies as specified in Appendix B, in circumstances where the labels in respect of one or more of those animal remedies had been altered in that the batch number had been tampered with; *and/or*
3. In or around 30 January 2013, had in your possession and/or under your control, one or more bottles of the designated Veterinary Practitioner Only (“VPO”) animal remedy Norocaine 100ml and/or Norocaine 500ml, contrary to Regulation 38(4)(a) of the European Communities (Animal Remedies) (No.2) Regulations 2007, as amended (the “2007 Animal Remedies Regulations”); *and/or*
4. Failed to ensure that there existed on 11 February 2013 any or any adequate record relating to one or more of the animal remedies as specified in Appendix C, supplied to the Pharmacy between 01 January 2012 to 11 February 2013, contrary to Regulation 34 of the 2007 Animal Remedies Regulations, as amended; *and/or*

5. Were convicted at Ennis Circuit Court on 10 May 2021 of one or more of the following offences, as referred to in the Order dated 10 May 2021, a copy of which is contained in Appendix D:
 - a. As director, manager secretary or other officer of a body corporate, consenting or conniving or by neglect responsible for the possession of an animal remedy by the body corporate, the label or package leaflet of which has been altered or removed without the authorization contrary to Regulations 28(10), 67 and 69 of the 2007 Animal Remedies Regulations; *and*
 - b. As director, manager secretary or other officer of a body corporate, consenting or conniving or by neglect responsible for the sale or supply to a person of an animal remedy designated prescription only without a veterinary prescription by the body corporate, contrary to Regulations 28(4), 67 and 69 of the 2007 Animal Remedies Regulations; *and*
 - c. As director, manager secretary or other officer of a body corporate, consenting or conniving or by neglect responsible for the failure to keep sufficient record of sales and purchases by the body corporate, contrary to Regulations 34, 67 and 69 of the 2007 Animal Remedies Regulations;
6. Such further allegations as may be notified to you in advance of the Inquiry.

AND FURTHER by reason of one or more of the allegations set out at 1 and/or 2 above, taken individually, you are guilty of professional misconduct in that you acted in a manner that is:

- i. infamous and/or disgraceful in a professional respect; *and/or*
- ii. involves moral turpitude, fraud or dishonesty of a nature or degree which bears on the carrying on of the professional of a pharmacist; *and/or*
- iii. a breach of Principles 2 and/or 3 and/or 4 and/or 6 of the Code of Conduct for Pharmacists, 2009; *and/or*

AND FURTHER by reason of one or more of the allegations set out at 3 and/or 4 and/or 5(c) above, taken individually, you are guilty of professional misconduct in that you acted in a manner that is:

- i. infamous and/or disgraceful in a professional respect; *and/or*

- ii. a breach of Principles 2 and/or 3 and/or 4 and/or 6 of the Code of Conduct for Pharmacists, 2009; and/or

AND FURTHER by reason of one or more of the allegations and/or sub allegations as set out at 1 and/or 2 and/or 3 and/or 4 and/or 5(c) above, taken cumulatively and/or in combination, you are guilty of professional misconduct in that you acted in a manner that is:

- i. infamous and/or disgraceful in a professional respect; *and/or*
- ii. involves moral turpitude, fraud or dishonesty of a nature or degree which bears on the carrying on of the professional of a pharmacist; *and/or*
- iii. a breach of Principles 2 and/or 3 and/or 4 and/or 6 of the Code of Conduct for Pharmacists, 2009; and/or

AND FURTHER, by reason of the allegations set out at 5(a) and/or 5(b) above, you have been convicted in the State of an offence which is triable on indictment.

3. Preliminary Application

At the outset of the Inquiry, the Chair referred to the linked complaints against Ms Kelly and Esterville Limited trading as Kelly's Pharmacy (5891).

Submissions on behalf of Ms Kelly

3.1 Mr Lanigan stated that he wanted the Committee to consider dealing with the Inquiry by way of an undertaking and that this request was being made in the context of inordinate delay and what was an exceptional situation. In outlining the relevant chronology, Mr Lanigan stated that an inspection of Kelly's Pharmacy took place on 30 January 2013 and that it is 2 months short of 13 years since that inspection took place. He stated that Ms Kelly was interviewed for several hours on that date without any legal advice but after he raised issues in this regard, there was a subsequent interview with Ms Kelly which Mr Lanigan attended.

3.2 Mr Lanigan stated that there were summonses made returnable for the District Court in early 2014 with 66 charges and the matter came before Ennis District Court on several occasions. He stated that from the outset it was indicated to the prosecution that pleas would be entered and when the matter came before the District Court in November 2014,

it was indicated to the Judge that the matter would take two days to hear. The District Judge refused jurisdiction and he stated that Ms Kelly did not seek to delay matters by seeking to judicially review that decision. Mr Lanigan stated that book of evidence was eventually served in March 2015 and the matter then appeared in the Ennis list for a period of 6 years. He stated that a new Judge was assigned in May 2021 and the prosecution indicated that certain pleas would be acceptable and a nolle prosequi would be entered on 59 counts. Mr Lanigan stated that at the time of sentencing, the Circuit Court Judge apologised to his clients for the delay which he referred to as “*unconscionable*”. Mr Lanigan confirmed that Ms Kelly entered a plea of guilty to 3 counts and a fine of €650 was imposed.

3.3 Mr Lanigan stated that the complaint to the PSI was made in 2018 and that he engaged with the PSI and made a submission in May 2021 referring to the conviction and conceding that the matters were not trivial.

3.4 Mr Lanigan submitted that to deal with the matter by way of undertaking would not cause any harm to the public and that having regard to the very particular and exceptional circumstances, it would not create a precedent for dealing with such cases. Mr Lanigan submitted that the manner in which Ms Kelly dealt with the prosecution and entered a guilty plea showed insight and an acknowledgment of conduct that was wrong. He referred to an inspection of the pharmacy in April of 2025 and that only minor issues were identified which were remedied. He referred to three pharmacists being employed at the pharmacy and that matters are in good order.

3.5 Mr Lanigan stated that Ms Kelly is 62 years old and has been registered for 40 years since November 1985 and that consequently, for 25% of her professional career she has had these matters hanging over her. Mr Lanigan addressed the terms of the proposed undertaking.

Submissions on behalf of the Registrar

3.6 Mr O’Sullivan furnished a hard copy of the proposed terms of the undertaking to the Committee. He opened the papers in the Core Book and referred to Ms Kelly’s registration as a pharmacist and details of the complaint submitted by Martin Blake together with the accompanying documentation.

- 3.7 Mr O’Sullivan submitted that the possession, sale and supply of animal remedies is strictly regulated by statute. He referred to Prescription Only Medicines (“POMs”) which can be sold by a pharmacist where there is a valid prescription from a vet and he referred to Veterinary Practitioner Only Medicines (“VPOs”) which can only be possessed and administered by a vet. Mr O’Sullivan outlined particular concerns with the inappropriate supply of antibiotics and referred to the strict set of requirements regarding labelling of animal remedies and records that must be kept by a pharmacist who is in possession of and selling or supplying animal remedies.
- 3.8 Mr O’Sullivan referred to the inspection of Kelly’s pharmacy on 30 January 2013 and the significant deficiencies that were identified in relation to animal remedies including the lack of prescriptions, altered labels and VPOs which should not have been in Ms Kelly’s possession. There was another inspection in February 2013 and the discovery of additional animal remedies with altered labels which had been overlooked during the first inspection. Mr O’Sullivan went through extracts of the statement of Mr Louis Reardon (Veterinary Inspector with the Department of Agriculture), the statements by Ms Kelly during interview and the statement of Noel Kelly (Veterinary Inspector with the Department of Agriculture). He also briefly referred to the statement of Breda Meehan, Valerie Beatty, statements from customers, statements from wholesalers and technical documents from the State laboratory and certificates from the Irish Medicines Board. He also listed various documents seized by Mr Reardon.
- 3.9 Mr O’Sullivan referred to correspondence from Mr Lanigan after the complaint was lodged with the PSI in 2018 and which correspondence referred to the criminal prosecution and that Ms Kelly was reserving her position to deal with the allegations after the matters before the Circuit Criminal Court had concluded. He stated that correspondence issued from the PSI in June 2018 stating that the PPC would adjourn consideration of the matter until after the outcome of the criminal proceedings.
- 3.10 Mr O’Sullivan opened the Notice of Inquiry and the 5 allegations against Ms Kelly. He referred to the expert’s report and the opinion that allegations 1 and 2 amounted to professional misconduct on two limbs of the definition, allegations 3, 4 and 5(c) amounted to professional misconduct on one limb of the definition and allegations 1, 2, 3, 4 and 5c cumulatively or in combination amounted to professional misconduct under the 3 limbs of the definition. Mr O’Sullivan stated that allegations 5(a) and 5(b) are

pursued on the basis of a conviction in the State of an offence triable on indictment. Mr O’Sullivan then referred to the main aspects of Mr Quirke’s report and his opinion on each of the allegations.

3.11 Mr O’Sullivan stated that in the unusual and exceptional circumstances, the Registrar was supporting the application for the matter to be dealt with by way of undertaking notwithstanding the very serious allegations. He referred to a period of 13 years since the acts/omissions giving rise to the complaint and that the matter had been hanging over Ms Kelly for a very long period of time through no fault on her part. Mr O’Sullivan stated that there has been no complaint against Ms Kelly either prior to or subsequent to this complaint. He referred to inspections of the pharmacy with no serious issues identified regarding animal remedies which suggested that important lessons were learned and issues have been addressed and remedied.

4. Legal Assessor's Advice

4.1 Ms Lynch advised the Committee that the matter fell to be addressed under section 46 of the Pharmacy Act 2007. She noted that terms of the proposed undertaking had been circulated to the Committee and she referred to the Committee’s role under section 46 of the Act. Mr Lanigan had confirmed that Ms Kelly was prepared to give undertakings in the proposed terms and the Registrar was, in the particular circumstances of the case, indicating her support for the matter being dealt with by way of undertaking.

4.2 Ms Lynch advised the Committee that the legal impact of an undertaking being requested and given is that the Complaint is considered to be completed which is expressly referred to in the 2007 Act. Ms Lynch advised the Committee members that they must come to their own independent decision on the question of an undertaking. She advised that the first step was that they must be satisfied they were in a position to make an informed and reasoned decision in relation to the issue and that it was open to them to seek clarifications, if necessary. Ms Lynch advised that the next step to be taken by the Committee was to decide whether it was an appropriate case to request an undertaking and they must have particular regard to the question of public interest. Ms Lynch referred to the factors to be considered as part of the public interest.

- 4.3 Ms Lynch stated that the Committee must have regard to the particular circumstances of the case. She referred to the issue of delay and advised that it was for the Committee to give appropriate weight to that factor in coming to a conclusion. Ms Lynch advised the Committee to have regard to other factors referred to in the submissions.
- 4.4 Finally, Ms Lynch advised the Committee that they should consider the specific terms of the proposed undertaking but it was for the Committee to decide on the appropriate wording and that what was urged upon them by Mr Lanigan or the fact that the Registrar was supportive of the undertaking was not determinative.

5. Decision of the Committee

- 5.1 The Committee carefully considered the preliminary application by Mr. Lanigan, the submissions in support of that application on behalf of Ms. Kelly and the submissions made by Mr. O'Sullivan on behalf of the Registrar. The Committee had regard to the opening of the case by Mr. O'Sullivan, the documents and the submissions and decided that it had sufficient information and understood the nature of the case against Ms. Kelly to enable the Committee to reach a decision about whether or not to request an undertaking.
- 5.2 The Committee had regard to the following:-
- a) The Committee considered that the allegations set out in the Notices of Inquiry raise extremely serious matters.
 - b) The Committee viewed the delay since the events at issue as the most significant factor it has to consider at this stage. The Committee viewed the delay as inordinate and excessive in circumstances where the conduct, the subject matter of the Inquiry, took place almost 13 years ago.
 - c) The Committee agreed that if the prolonged period of delay was not involved, this matter could not be appropriately addressed by way of an undertaking and that if all or some of the allegations were proven at Inquiry, a severe sanction could follow. The Committee agreed with the expert's conclusion that some of the misconduct as alleged was at the highest end of the scale.

- d) The Committee noted that there was a period of delay in the initial complaint being made and a completely unsatisfactory period of delay regarding the separate criminal process. While the PSI acceded to a request to pause the fitness to practice process in light of the ongoing criminal prosecution, that decision does not appear to have been reviewed until the conclusion of the criminal process some 3 years later.
- e) The Committee was cognisant of the fact that Ms. Kelly was subject to an ongoing criminal process and a fitness to practice process over a 13 year period which equates to 25% of Ms. Kelly's career as a registered pharmacist. During that passage of time, Ms. Kelly continued to work as a pharmacist and the Pharmacy operated without complaint and this must be considered together with Ms. Kelly's previous lengthy unblemished career and the Pharmacy's previous unblemished registration. The Committee considered the report of the PSI inspection carried out in April 2025 and which did not disclose any issues connected to the subject matter of the allegations.
- f) The Committee took into account the fact that Ms. Kelly entered guilty pleas in respect of criminal charges (reflected in Appendix D of the Notice of Inquiry) which displayed insight and acknowledgment of her failings in respect thereof. Significantly from the Committee's perspective, Ms. Kelly co-operated with the inspection, investigation and fitness to practice process.
- g) The Committee is satisfied that Ms. Kelly is very unlikely to repeat the conduct complained of. The Committee also took account of the fact that the Pharmacy no longer dispenses prescription only animal remedies or veterinary only animal remedies.
- h) The Committee had regard to the fact that there were no known adverse outcomes for any patient or any animal and it was satisfied that there is no evidence of public protection risks on foot of Ms. Kelly's current practice as a pharmacist.
- i) While not determinative, the Committee took account the fact that the Registrar is supporting the matter being dealt with by way of undertaking.

- 5.3 Overall, and in circumstances where a combination of the factors set out above rendered this an exceptional case, the Committee decided that this was an appropriate case to request an undertaking pursuant to Section 46 of the Pharmacy Act 2007 as amended.
- 5.4 The Committee considered the wording of the undertakings proposed. In doing so it was conscious of exercising its function to protect the public and promote public confidence in the regulation of pharmacists. The Committee was satisfied, subject to small amendments, that the undertakings offered were comprehensive, provided reassurance from a public protection standpoint and were proportionate in the circumstances.
- 5.5 Regarding the undertaking and consent by Ms. Kelly, the Committee was of the view that the combination of the undertaking not to repeat the conduct complained of (to include specific terms and to undergo additional training) together with consent to censure were required as being appropriate in the circumstances and sufficient to meet the seriousness of the issues raised.

6. Undertaking Provided by Ms Kelly

6.1 The Registrant provided the following undertakings to the Committee:

1. Not to repeat the conduct complained of, specifically that Ms Marie Kelly MPSI will:
 - a. Ensure that the labels of all animal remedies in her possession and/or under her control are not altered in any way, and in particular that the manufacturer's batch number is not tampered with and is fully legible at all times; *and*
 - b. Ensure that she will not have in her possession and/or under her control, any Veterinary Practitioner Only animal remedies ("VPO") such as Norocaine and/or any other VPO, contrary to Regulation 38(4)(a) of the European Communities (Animal Remedies) (No.2) Regulations 2007, as amended; *and*
 - c. At all times, ensure that there is an adequate record of all purchases and sales of animal remedies (including quantities administered) in respect of each incoming and outgoing transaction at Esterville Ltd t/a Kelly's Pharmacy or any Pharmacy in which she is the Superintendent and/or Supervising Pharmacist, to include the date of the transaction, the identity of the animal remedy, the

manufacturer's batch number, the name and address of the supplier or the consignee, the quantity received or supplied (including the details of the person(s) to whom it is supplied), and in the case of VPOs, the serial number of the veterinary prescription authorising the purchase; *and*

2. Engage an independent and external mentor, to be approved by the Registrar in advance, to provide appropriate and/or adequate mentorship on the requirements for the sale and/or supply of animal remedies, to include the requirement that the labels of animal remedies are not altered in any way, the requirement for a valid veterinary prescription to authorise the purchase and/or supply of VPOs and the requirement for adequate record keeping, and keep an adequate record of the training undertaken. This mentorship to be made up of at least two sessions to be completed within six months of the signing hereof and confirmation of completion to be provided by said independent external mentor to the Registrar; *and*
3. Consent to be censured by the Council of the PSI.

SIGNED:



Susan Ahern SC,
Chairperson

DATE:

4 February 2026