

TMT 10



Exhibits

TMT 10

Letter Medical Council of New Zealand to Miles Wislang

20 September 2000

Registration No: 05965

20 September 2000

Level 12, Mid City Tower, 139-143 Willis Street

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**PRIVATE AND CONFIDENTIAL
TO BE OPENED BY ADDRESSEE ONLY**

Dr Miles Wislang
38 Glengarry Avenue
Manly
Whangaparaoa
NORTH SHORE 1463

THIS is the Exhibit marked TMT 10 referred to in paragraph 16 of the annexed affidavit of Tama Museen Turvey SWORN at Wellington this 16th day of May 2001 before me:

A Solicitor of the High Court of New Zealand

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Dear Dr Wislang

Re: Application for annual practising certificate (APC)

As you are aware Council considered your application for an APC at its meeting in February this year and proposed to issue an APC subject to the following conditions:

- that you restrict your independent practice to hair transplants and,
- that you nominate a general overseer who will also agree to be your mentor.

You chose to exercise your statutory right to make submissions and be heard in respect of the matter. You and your legal representative, Dr G Taylor attended the Council meeting on Thursday 10 August 2000 for this purpose.

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Both Dr Taylor and you presented written submissions to Council members. Dr Taylor made oral submissions and then each Council member and the Assistant Registrar had the opportunity to ask you questions and for you to answer the questions. The Council then considered the matter and I advise:

1. Council resolved that an APC be issued subject to the following conditions:
 - That you restrict you independent practice to hair transplants and the teaching of anatomy and bio-surgical research; and
 - That you nominate a general overseer who will also agree to be your mentor.

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2. Council views mentoring as the provision of collegial support and guidance which is seen as assisting a doctor in regaining or maintaining safe practice. I enclose information about the Council's mentoring programme that you may find helpful to understand the role that the Council expects your nominated overseer/mentor to undertake.

3. In reaching this decision the Council took into account:

- The decision of the Medical Practitioners Disciplinary Tribunal (MPDT) (102/99/47C) dated 10 December 1999.

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- Information provided by you in your letter of 7 February 2000.
- Your curriculum vitae.
- Affidavits from Dr Paul Wilson and Dr Stephen Gilbert.
- Application for an annual practising certificate for the current year.
- Your written submissions dated 30 March 2000.
- Your letter dated 27 July 2000.
- Submissions prepared by your counsel and dated 10 August 2000.
- Oral submissions made by your counsel on 10 August 2000.
- Answers given to direct questioning by Council members and Assistant Registrar.

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4. Reasons for decision.

4.1 The Council accepted that you have been involved in bio-surgical research and anatomy teaching in the past and that you intend to resume work in these areas in the future. The Council does not want to restrict you from doing this and determined that the scope of practice of your annual practising certificate be widened to enable you to do that.

4.2 Section 54(1) of the Medical Practitioners Act 1995 (MPA) says:

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"When an application for an annual practising certificate has been referred to the Council by the Registrar, the Council shall not decide that the certificate should be issued unless it is satisfied that the applicant is competent to practise medicine in accordance with his or her registration (or, if the Council imposes conditions on the annual practising certificate, that the applicant is competent to do so if he or she complies with those conditions)."

4.3 A medical practitioner's competence includes not only whether a doctor is practising safely and has an acceptable level of knowledge and skills (including procedures and communication) but also the doctor's attitudes and judgement (I enclose a competence review booklet distributed by the Medical Council for your reference).

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4.4 During the period April 1994 to April 1998, notwithstanding that you were aware that you had not obtained a practising certificate you carried on your medical practice.

4.5 Since the MPA came into force in 1996 the APC is seen as an important tool for monitoring a doctor's competence. The Registrar has powers to decline to issue a doctor with an APC if she has reasonable grounds to believe that there are concerns about that doctor's professional competence. Your lack of insight and lack of awareness of the potential harm to the public (in the terms expressed by the MPDT in paragraph 6.3 of its decision and the admissions set out in paragraphs 7 and 8 of the submissions prepared by your counsel) by practising outside the formal statutory structure of the medical profession is a serious concern to the Council.

4.6 Council considers that your attitude and lack of judgement and, in particular, not giving any thought to the jeopardy in which you placed persons with whom you had dealings during the period that you were practising without an APC (again as discussed by the MPDT in its decision) evidences a deficiency in your competence as a medical practitioner as described in paragraph 4.3.

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4.7 You have demonstrated to the Council a lack of overall ability to organise your affairs. You have failed on a number of occasions to notify Council of your change of address, you have failed to make arrangements with the MPDT to pay the costs awarded against you in December last year and when asked by the President where you intended to work from with your APC you advised that that was yet to be determined.

10 4.8 The Council decided that your knowledge and skills of procedures and communication and your attitudes and judgement is not of an acceptable level and it felt that it could only be satisfied that you were competent to practise if the Council imposed conditions on your APC and that you complied with those conditions.

4.9 The Council decided that the deficiencies will not be remedied simply by putting in place administrative systems. The Council has concluded that you require guidance and support to ensure that you continue to use, maintain and improve your systems. The Council needs to be satisfied that your newly acquired learning and awareness of the responsibilities of medical practitioners becomes an integral part of your practice.

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20 4.10 Council is of the view that the best way to ensure ongoing competence to practise is for you to be subject to supervision. The supervision should be in the nature of general oversight.

4.11 There is no need for the overseer to "shadow your every move and nurse maid you in all aspects of your clinical practice". An overseer is there to guide and help you. A doctor providing oversight is like a mentor, although has not only a collegial duty but also a legal duty to monitor the performance of their colleague. If reasonable care is taken in oversight activities, then the overseer will not be held liable for the doctor's actions simply by being their overseer (I enclose a copy of the Medical Council's general oversight booklet for your reference).

30 5. You have the right to appeal to a District Court against the Council order to issue you with an APC subject to the conditions specified in paragraph 1. Your appeal must be lodged within 20 working days after notice of the decision is given to you.

6. Finally, as I have said, the MPDT has advised the Council that you have not paid the costs that you were ordered to pay pursuant to Section 110 of the Medical Practitioners Act 1995. The Registrar may decline to issue you an APC until the costs are paid. In the circumstances you will not be issued with an APC until the Council is notified that these costs have been paid to the MPDT. You may pursuant to section 51(5) of the MPA make a written request for the Council to review the Registrar's decision.

Yours sincerely


Tania Turrey
ACTING REGISTRAR

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