



**Report of the Fitness to Practise Committee
following an Inquiry held pursuant to Part 8
of the Medical Practitioners Act 2007**

Registered Medical Practitioner:	Dr. Patrick Joseph Lee
Registration Number:	12461
Registered Address:	27 Woodberry Greenfields Kilumney Cork
Date of Inquiry:	9 th July, 2010
Members of Inquiry Committee:	Dr. Deirdre Madden (Chairman) Professor Anthony Cunningham Mr. Peter Mooney
Legal Assessor:	Mr. Kevin Cross S.C.
Appearances - For the Chief Executive:	Mr. JP Mc Dowell & Ms Aoiffe Moran of Mc Dowell Purcell Solicitors.
For the Practitioner:	Ms Eileen Barrington instructed by Ms. Judy O'Kane of Hayes Solicitors

The nature of the Complaint that resulted in the Inquiry:

The Committee noted that:

1. The Preliminary Proceedings Committee has formed the opinion that there is a prima facie case to warrant further action being taken in relation to the complaint of Mr Martin Dorney.
2. The Preliminary Proceedings Committee has referred the complaint to the Fitness to Practise Committee on the grounds of professional misconduct and poor professional performance.

The Committee further noted that:

The allegations of professional misconduct and/or poor professional performance considered by the Committee were as follows:

That Dr. Lee, being a Registered Medical Practitioner providing care to his patient, Mr Martin Dorney:

1. Failed to ensure that there was any or any adequate system in place in his surgery for the review of histology reports in or around August 2003 and/or
2. Failed to review adequately or at all, either on his return from holidays and/or at the consultation with Mr Dorney in or around the end of August 2003, the contents of a histology report dated 21st August 2003 (hereinafter referred to as "the full report") received by him from the Department of Histopathology, Cork University Hospital in relation to a mole which he had removed from Mr Dorney's knee on or around 7th August 2003 and/or
3. Advised Mr Dorney at the consultation in or around the end of August 2003 that the mole was benign in circumstances where the full report confirmed that sections of the skin showed a markedly dysplastic compound naevus and/or atypia and/or
4. Failed to advise Mr Dorney at the consultation in or around the end of August 2003 that wide local excision had been advised in the full report and/or
5. Failed to review adequately or at all, the full report consequent on consultations with Mr Dorney on or around 3rd February and/or 11th February and/or 2nd March 2009 and/or
6. Concealed from Mr and Mrs Dorney at a consultation on or around 30th March 2009 the full contents of the full report dated 21st August 2003 and/or
7. Concealed from Mr Dorney during the course of a telephone call and/or at a meeting on or around 29th April 2009 the full contents of the full report dated 21st August 2003 and/or
8. At a consultation on or around 30th April 2009, furnished a version of the histology report dated 21st August 2003 on which he had blocked out the sections entitled "comment " and "conclusion" and the pathologist's name (hereinafter referred to as "the altered report") and/or
9. Falsely represented to Mr Dorney during the course of a telephone call and/or consultation on or around 30th April 2009 that:
 - a. He had received only the altered report in August 2003 and/or

- b. The reason he suspected in April 2009 that he did not receive the full report in August 2003 was due to the fact that the Consultant Oncologist's secretary contacted him requesting the author of the histology report dated 21st August 2003 and he was unable to identify same from the report and/or
 - c. The reason that he had not received the full report in August 2003 was on account of an administrative error on the part of Cork University Hospital and/or his surgery and/or
 - d. He had only recently received the full report and/or
 - e. He had received the full report on 21st April 2009 by showing the full report to Mr Dorney on which report there was affixed a date stamp marked 21st April 2009 and/or
10. Failed to inform Mr Sean Brennan, Consultant Surgeon and/or the Consultant Oncologist of the contents of the full report within an adequate timeframe after 30th March 2009 and/or
11. Falsely represented during the course of a meeting with Mr and Ms Dorney on or around 2nd May 2010 that he had only become aware of the full histology findings by way of telcons with Mr Brennan on 24th April and/or 30th April when in fact he had been aware since on or around 30th March and/or
12. Failed to apply the appropriate standards of clinical care and judgment in respect of the treatment afforded by him to Mr Dorney and/or
13. Acted in a manner derogatory to the reputation of the medical profession and/or
14. Failed to maintain adequate medical records in relation to treatment afforded by him to Mr Dorney and/or
15. Failed to maintain an adequate record of the removal of a biopsy specimen by him from Mr Dorney's leg on or around 07 August 2003 and/or

Evidence presented to the Committee:

Please find attached a transcript of the Inquiry.

The Committee heard evidence from the following witnesses on behalf of the CEO:

- 1. Mr. Martin Dorney
- 2. Prof Colin Bradley

The Committee heard evidence from the following witnesses on behalf of the registered medical practitioner:

1. Dr. Patrick Lee
2. Dr. O'Connor
3. Dr. Corcoran
4. Ms. Joyce
5. Dr. Roberts

The Committee also considered the following documentary exhibits:

1. Core Book of Documents (lever arch file)
2. Dr. Lee's CV
3. Ms. Dorney's statement
4. Dr. O'Connor's Report
5. Book of testimonials submitted on behalf of Dr Lee

Findings of the Committee:

Allegation 1:

That Dr. Lee failed to ensure that there was any or any adequate system in place in his surgery for the review of histology reports in or around August 2003.

Having regard to the evidence adduced, the Committee found that :

Allegation 1 was proven as to fact.

Reason: Based on the evidence of Dr Lee that he did not have an adequate system in place in 2003 to comprehensively review reports.

Allegation 1 did not amount to professional misconduct.

Reason: The Committee finds that the relevant test for professional misconduct in 2003 was not established beyond reasonable doubt.

Allegation 2:

That Dr. Lee failed to review adequately or at all, either on his return from holidays and/or at the consultation with Mr Dorney in or around the end of August 2003, the contents of a histology report dated 21st August 2003 (hereinafter referred to as "the full report") received by him from the Department of Histopathology, Cork University Hospital in relation to a mole which he had removed from Mr Dorney's knee on or around 7th August 2003.

Allegation 2 was admitted as to fact.

Allegation 2 did not amount to professional misconduct.

Reason: The Committee finds that the relevant test for professional misconduct in 2003 was not established beyond reasonable doubt.

Allegation 3:

That Dr. Lee advised Mr Dorney at the consultation in or around the end of August 2003 that the mole was benign in circumstances where the full report confirmed that sections of the skin showed a markedly dysplastic compound naevus and/or atypia.

Allegation 3 was admitted as to fact.

Allegation 3 did not amount to professional misconduct.

Reason: The Committee finds that the relevant test for professional misconduct in 2003 was not established beyond reasonable doubt.

Allegation 4:

That Dr. Lee failed to advise Mr Dorney at the consultation in or around the end of August 2003 that wide local excision had been advised in the full report.

Allegation 4 was admitted as to fact.

Allegation 4 did not amount to professional misconduct.

Reason: The Committee finds that the relevant test for professional misconduct in 2003 was not established beyond reasonable doubt.

Allegation 5:

That Dr. Lee failed to review adequately or at all, the full report consequent on consultations with Mr Dorney on or around 3rd February and/or 11th February and/or 2nd March 2009.

Allegation 5 was admitted as to fact.

Allegation 5 did amount to poor professional performance.

Reason: Based on the evidence of Professor Colin Bradley that Dr. Lee failed to meet the standards of competence that can reasonably be expected of medical practitioners practising medicine of the kind practised by Dr. Lee.

Allegation 6:

That Dr. Lee concealed from Mr and Mrs Dorney at a consultation on or around 30th March 2009 the full contents of the full report dated 21st August 2003.

Allegation 6 was admitted as to fact.

Allegation 6 did amount to professional misconduct.

Reason: The Committee finds that the test for professional misconduct was established beyond reasonable doubt.

Allegation 7:

That Dr Lee concealed from Mr Dorney during the course of a telephone call and/or at a meeting on or around 29th April 2009 the full contents of the full report dated 21st August 2003.

Allegation 7 was admitted as to fact.

Allegation 7 did amount to professional misconduct.

Reason: The Committee finds that the test for professional misconduct was established beyond reasonable doubt whilst also being admitted as professional misconduct by Dr. Lee.

Allegation 8:

That Dr. Lee at a consultation on or around 30th April 2009, furnished a version of the histology report dated 21st August 2003 on which he had blocked out the sections entitled "comment " and "conclusion" and the pathologist's name (hereinafter referred to as "the altered report").

Allegation 8 was admitted as to fact.

Allegation 8 did amount to professional misconduct.

Reason: The Committee finds that the test for professional misconduct was established beyond reasonable doubt whilst also being admitted as professional misconduct by Dr. Lee.

Allegation 9:

That Dr. Lee falsely represented to Mr Dorney during the course of a telephone call and/or consultation on or around 30th April 2009 that:

- a. He had received only the altered report in August 2003 and/or
- b. The reason he suspected in April 2009 that he did not receive the full report in August 2003 was due to the fact that the Consultant Oncologist's secretary contacted him requesting the author of the histology report dated 21st August 2003 and he was unable to identify same from the

- report and/or
- c. The reason that he had not received the full report in August 2003 was on account of an administrative error on the part of Cork University Hospital and/or his surgery and/or
 - d. He had only recently received the full report and/or
 - e. He had received the full report on 21st April 2009 by showing the full report to Mr Dorney on which report there was affixed a date stamp marked 21st April 2009.

Having regard to the evidence adduced, the Committee found that :

Allegation 9a was admitted as to fact.

Allegation 9a did amount to professional misconduct.

Reason: The Committee finds that the test for professional misconduct was established beyond reasonable doubt whilst also being admitted as professional misconduct by Dr. Lee.

Allegation 9b was admitted as to fact.

Allegation 9b did amount to professional misconduct.

Reason: The Committee finds that the test for professional misconduct was established beyond reasonable doubt whilst also being admitted as professional misconduct by Dr. Lee.

Allegation 9c was admitted as to fact.

Allegation 9c did amount to professional misconduct.

Reason: The Committee finds that the test for professional misconduct was established beyond reasonable doubt whilst also being admitted as professional misconduct by Dr. Lee.

Allegation 9d was admitted as to fact.

Allegation 9d did amount to professional misconduct.

Reason: The Committee finds that the test for professional misconduct was established beyond reasonable doubt whilst also being admitted as professional misconduct by Dr. Lee.

Allegation 9e was admitted as to fact.

Allegation 9e did amount to professional misconduct.

Reason: The Committee finds that the test for professional misconduct was established beyond reasonable doubt whilst also being admitted as professional misconduct by Dr. Lee.

Allegation 10:

That Dr. Lee failed to inform Mr Sean Brennan, Consultant Surgeon and/or the Consultant Oncologist of the contents of the full report within an adequate timeframe after 30th March 2009.

Allegation 10 was admitted as to fact.

Allegation 10 did amount to professional misconduct.

Reason: The Committee finds that the test for professional misconduct was established beyond reasonable doubt whilst also being admitted as professional misconduct by Dr. Lee.

Allegation 11:

That Dr. Lee falsely represented during the course of a meeting with Mr and Ms Dorney on or around 2nd May 2010 that he had only become aware of the full histology findings by way of telcons with Mr Brennan on 24th April and/or 30th April when in fact he had been aware since on or around 30th March.

Allegation 11 was admitted as to fact.

Allegation 11 did amount to professional misconduct.

Reason: The Committee finds that the test for professional misconduct was established beyond reasonable doubt whilst also being admitted as professional misconduct by Dr. Lee.

Allegation 12:

That Dr. Lee failed to apply the appropriate standards of clinical care and judgment in respect of the treatment afforded by him to Mr Dorney.

Having regard to the evidence adduced, the Committee found that :

Allegation 12 was proven as to fact.

Reason: Based on the evidence of Dr Lee and Professor Bradley.

Allegation 12 did amount to professional misconduct.

Reason: Based on the evidence of Professor Colin Bradley to the effect that Dr Lee's failure to apply appropriate standards of care to Mr Dorney and his deliberate concealment of the serious error constitutes a serious falling short of the standards of conduct expected among doctors.

Allegation 13:

That Dr. Lee acted in a manner derogatory to the reputation of the medical profession.

Having regard to the evidence adduced, the Committee found that :

Allegation 13 was proven as to fact.

Reason: Based on the evidence that Dr. Lee attempted to conceal evidence of a serious error which he had made in the treatment he afforded to Mr. Dorney.

Allegation 13 did amount to professional misconduct.

Reason: The Committee finds Dr Lee's conduct was disgraceful and dishonourable and that therefore the test for professional misconduct was established beyond reasonable doubt.

Allegation 14:

That Dr. Lee failed to maintain adequate medical records in relation to treatment afforded by him to Mr Dorney.

Having regard to the evidence adduced, the Committee found that :

Allegation 14 was proven as to fact.

Reason: Based on the evidence given by Prof. Bradley as to what would constitute adequate medical records.

Allegation 14 did amount to poor professional performance.

Reason: Based on the evidence of Professor Colin Bradley that Dr. Lee failed to meet the standards of competence that can reasonably be expected of medical practitioners practising medicine of the kind practised by Dr. Lee.

Allegation 15:

That Dr. Lee failed to maintain an adequate record of the removal of a biopsy specimen by him from Mr Dorney's leg on or around 07 August 2003

Having regard to the evidence adduced, the Committee found that :

Allegation 15 was proven as to fact.

Reason: Based on the evidence as to Dr. Lee's medical records in respect of the treatment afforded to Mr. Dorney.

Allegation 15 did not amount to professional misconduct.

Reason: The Committee finds that the relevant test for professional misconduct in 2003 was not established beyond reasonable doubt.

Recommendations to Council as to sanction:

Having considered the nature of the findings above, the evidence given by all of the witnesses, the documents exhibited at the inquiry, including the testimonials submitted on behalf of Dr Lee, and the factors outlined below the Committee (by majority) recommends suspension of Dr. Lee's name from the Register for a period of 3 months and (unanimously) the imposition of the following conditions following the expiry of the period of suspension :-

1. You must work with a nominated person acceptable to the Medical Council, to formulate a Professional Development Plan, specifically designed to address the deficiencies in the following areas of your practice:
 - (a) Record keeping, both electronic and written.
 - (b) System for review of test results.
 - (c) Processing and filing reports.
 - (d) Referrals and follow-ups.
2. You must forward a copy of your Professional Development Plan to the Medical Council within three months of the date on which these conditions become effective.
3. You must meet with a nominated person acceptable to the Medical Council, on a regular basis to discuss your progress towards achieving the aims set out in your Professional Development Plan. The frequency of your meetings is to be agreed by the nominated person and the Medical Council.
4. You must agree to the nominated person acceptable to the Medical Council supplying reports to the Medical Council about your progress when requested.
5. You must provide evidence to the Medical Council of your ongoing and regular participation in relevant Continuing Professional Development.
6. You must undertake an audit of all referrals and follow-up actions arising from laboratory and diagnostic investigations undertaken on behalf of your patients within the last five years and provide evidence to the Medical Council of such audit.

7. You must develop and monitor practice protocols in respect of referrals and follow-up actions arising from laboratory and diagnostic investigations and provide evidence to the Medical Council of the steps you have taken to develop and monitor these practice protocols within 3 months of the date that these conditions become effective.
8. You must confine your medical practice to partnership or group practice.
9. You must undertake a course in Professionalism in Practice and provide evidence of your successful completion of the course to the Medical Council.
10. You must be responsible for discharging all costs associated with the implementation of and compliance with these conditions.
11. That these conditions will remain in place for a minimum of 2 years.

Reason: Good medical practice is based on a relationship of trust between doctors and patients in which doctors are expected to meet the highest standards of professional practice and behaviour. This relationship of trust is based on honesty, mutual respect, responsibility and accountability.

In reaching its decision the Committee took into account the consequences and effect of Dr Lee's actions on Mr. Dorney and his family, as well as the need to maintain among members of the public a well-founded confidence that their doctor is a person of integrity, honesty and trustworthiness.

Dr. Lee's behaviour falls seriously short of the standards expected of a medical practitioner. His dishonesty, deliberate deception and persistent attempts to avoid taking responsibility for his failure to carefully and comprehensively read and follow-up Mr. Dorney's histology report in 2003 constitutes disgraceful and dishonourable conduct.

The Committee is satisfied that Dr. Lee now fully acknowledges and takes responsibility for his error and the extremely serious impact it has had on Mr. Dorney. Dr. Lee has expressed deep and sincere regret and guilt for his failure and has apologised to Mr. Dorney and his family for his error and subsequent actions.

Deirdre Madden Chairperson

15/7/10
Date