

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL
ADMINISTRATIVE DIVISION
OCCUPATIONAL & BUSINESS REGULATION LIST**

No. B112/2010

BETWEEN:

CHIROPRACTIC BOARD OF AUSTRALIA

Applicant

and

DR. MALCOLM HOOPER

Respondent

Dated: 22nd December 2011

RESPONDENT SUBMISSION TO DIRECTIONS HEARING

1. I seek directions from the Tribunal to lodge additional evidentiary material in support of my case as to the following matters:
 - 1.1 Leave to file a Notice of Discovery to obtain all documents relating to consideration by any of the National or State Chiropractic Boards of any issue relating to the professional standards of conduct applicable to members of the chiropractic profession.
 - 1.2 Leave to subpoena Mr T to produce all documents relating to his decision and actions to remove his personal fund-raising website.
 - 1.3 Leave to serve a Notice of Discovery upon the Applicant as to any documents in relation to paragraph 1.2 above, that the Applicant or any party known to the Applicant, including website developer Sweet Mag Studio (Chandler K and Jerry W) may possess, or have possessed.
 - 1.4 Leave to serve Mr T to provide all documents and financial records for '*Consumer Affairs Victoria registration number 8248*'.
 - 1.5 Leave to serve Mr T to provide all documents and financial records for '*Ercan Tekin Appeal 9351*' PO Box 3045 Broadmeadows LPO Shop G1 Broadmeadows 3047.

- 1.6 Leave to submit computer records specific to Mr T's Lokomat treatments.
- 1.7 Leave to obtain further witness statements and evidence in support of the use of Hyperbaric Oxygen Therapy for conditions covered by Medicare and conditions not covered by Medicare currently available in Australian and overseas hospital and medical hyperbaric facilities.
- 1.8 Leave to file character witness statements to the efficacy of treatments.
- 1.9 Leave to file all relevant expert witness statements lodged in the recent United Kingdom court case between the British Chiropractic Board and Dr Simon Singh MD detailing the extent of the current scientific evidence supporting the efficacy of chiropractic treatments in the United Kingdom.
2. I seek direction and a ruling as to whether I am under a mandatory requirement to report the practitioners detailed in the annexure to my submission dated 24 November 2011, or any additional practitioner in the course of my hearing preparations, pursuant to *section 141 of the Health Practitioner Regulation National Law Act 2009*.
- 2.1 Annexure A comprises the three unanswered emails directed to Mr Norman Brockley, Chief Executive Officer of Chiropractors Association of Australia - Victoria, dated 25 November, 2 December and 14 December 2011.
- 2.2 Annexure B Letter 25 November 2011 to Mr Norman Brockley.
- 2.3 Annexure C Bronfort et al. Chiropractic & Osteopathy 2010.
- 2.4 Annexure D Email to various chiropractors in breach.
3. My former legal team has failed to lodge any material evidence relating to the key standards to which my *professional conduct* is to be measured in this case, namely the *standards generally practised by the chiropractic profession*. To this end, I seek to introduce to the Tribunal a broader focus of expert opinion as to the various medical conditions generally claimed by chiropractors to be supported by medical research, to be considered in conjunction with the expert opinions filed by both parties in this proceeding.
4. I seek a Direction for the Applicant to notify all members of the profession not to destroy any relevant material, which could be regarded as evidence to support my case as detailed in my correspondence with the Applicant.
- 4.1 Annexure E Letter 15 November 2011 to the Applicant relating to this issue.
- 4.2 Annexure F Email reply of the Applicant.

5. Leave to file a Counter claim for damages relating to loss of business, diminution of value of my business, and exemplary damages as a direct result of this Proceeding. Refer to Annexure G.

Matters Arising From Submission Dated 14 November 2011 Not Dealt With By Tribunal

6. Respondent's first direction sought - 'set down hearing to examine the *destruction of documents* issue'.
7. Respondent's third direction sought - is for the Tribunal to make an *order for costs* in my favour in relation to the *bias action in April 2011*; subject to the use of the funds being held in an appropriate trust account for use in engaging counsel to represent me in future hearings of this matter.
8. Respondent's fifth direction sought - is for the Tribunal to *rule on the appropriate standards* to which I am required to conform in deciding whether a finding of professional misconduct or unprofessional conduct is justified.
9. The Tribunal is referred to my Submission dated 14 November 2011 for detailed reasons supporting the directions sought which have not been dealt with to date by the Tribunal.

Further Clarification Requested

10. Further to VCAT Order 19 December 2011 item 19 and 21; I submit there is currently no Agreed Statement of Facts with Proposed Findings and Determinations. I seek direction enabling parties to enter the process of establishing a fresh statement of Agreed Facts including Proposed Findings and Determinations.

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No. B112/2010

BETWEEN:

CHIROPRACTIC BOARD OF AUSTRALIA

Applicant

and

DR. MALCOLM HOOPER

Respondent

Dated: 2nd December 2011

ANNEXURE

- A Unanswered emails directed to Mr Norman Brockley, Chief Executive Officer of Chiropractors Association of Australia – Victoria; dated 25 November, 2 December and 14 December 2011
- B: Letter 25 November 2011 to Mr Norman Brockley
- C: Bronfort et al. Chiropractic & Osteopathy 2010
- D: Email to various chiropractors in breach
- E: Letter 15 November 2011 to Applicant – Destruction of Evidence
- F: Email 16 November 2010 reply from Applicant
- G: Basic Google Search - Dr Malcolm R Hooper Chiropractor – number ONE response

1. Chiropractor's oxygen treatment created false hope from hot air

*www.theage.com.au/.../chiropractors-oxygen-treatment-created-false-...
25 Oct 2011 – Dr Malcolm Hooper. Photo: Craig Abraham. A CHIROPRACTOR who provided hundreds of hours of hyperbaric oxygen treatment to a man with ...*