

## Medical practitioner reprimanded and fined for professional misconduct

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12 May 2015

The Qld Civil and Administrative Tribunal has found Dr Steven Andrew behaved in a way that constituted professional misconduct, reprimanding and fining him \$10,000, and imposing conditions on his registration.

The Medical Board of Australia referred the matter to the tribunal alleging Dr Andrew had certified a patient as medically fit to drive, despite advice from two neurologists that this was unsafe. The patient was later involved in a car accident that killed a pedestrian.

Dr Andrew had worked as a general practitioner for 20 years, and had been treating the patient for several years. In mid-2005 the patient was involved in two car accidents, in early May and again in June. On both occasions the patient reported that he had had no seizures that may have caused the accident. Hospital records from the second accident provided evidence that this was not true.

After the second accident, the patient asked Dr Andrew to certify that he was fit to drive so that Queensland Transport would not revoke his licence. Dr Andrew referred the patient to a neurologist for assessment, and stated that he would certify the patient if the neurologist approved.

The neurologist's report concluded that the patient had likely suffered from seizures around the time of at least one of the car accidents, and that he would need to be seizure-free for at least two years before he could drive legally.

The patient expressed frustration at this finding, and Dr Andrew referred him to another neurologist for a second opinion. This neurologist also found that the patient had likely suffered from one or more seizures at the time of the accidents in 2005, and that the patient needed to be seizure-free for at least 12 months before he was fit to drive. The neurologist added that he would not certify the patient as being fit to drive in the future, based on the patient's history of non-compliance with medical advice.

The patient continued to ask Dr Andrew to certify him as medically fit to drive until June 2006 when Dr Andrew did so.

In November 2009 Dr Andrew again certified the patient as fit to drive. Shortly afterwards, the patient struck and hit a pedestrian while driving.

Dr Andrew disputed that it was his duty to not issue one or both medical certificates, but conceded that he should have based his decision on the patient's medical history and the neurologists' reports, and the risk to public safety.

The tribunal found that Dr Andrew's conduct in certifying the patient was medically fit to drive from June 2006 was a departure from expected standards.

It found his subsequent decision to issue another certificate in 2009, despite specialist neurological advice to the contrary and in the absence of any other specialist opinion, fell far below a standard of conduct expected of an experienced registered health practitioner of his level of experience.

The tribunal based its decision on Dr Andrew's knowledge of the patient's epilepsy and because he ought to have known it was unsafe to certify the patient contrary to specialist opinion. Given Dr Andrew had sought specialist opinion on two occasions, he was expected to consider, understand and comply with that opinion.

The tribunal found Dr Andrew had engaged in professional misconduct, reprimanded him, and imposed conditions on his registration, including that he:

- is prohibited from issuing certificates of fitness to drive, and
- must undertake a course of education for managing interaction by doctors with difficult patients.

Dr Andrew was also fined \$10,000 and ordered to pay the Board's costs.

The reasons for the tribunal's decision are available on [AustLII](#).

#### **For more information**

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- or registration enquiries: 1300 419 495 (within Australia) +61 3 9275 9009 (overseas callers)
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