



**NEW ZEALAND
HEALTH PRACTITIONERS
DISCIPLINARY TRIBUNAL**

TARAIPUINARA WHAKATIKA KAIMAHI HAUORA

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HPDT No. 929/Chiro17/391P

UNDER the Health Practitioners Competence Assurance Act
2003 (the Act)

IN THE MATTER of a disciplinary Charge laid against a health practitioner
under Part 4 of the Act

BETWEEN **A PROFESSIONAL CONDUCT COMMITTEE**
appointed by the Chiropractic Board
Applicant

AND **MELISSA VETTER** of Havelock North, Registered
Chiropractor
Practitioner

HEARING held at Napier on 18 October 2017

TRIBUNAL: Mr D M Carden (Chair)
Dr S Bansal, Dr A Taare, Dr E Hurtgen and Ms L Carlyon
(Members)
Miss D Gainey (Executive Officer)
Ms J Kennedy (Stenographer)

APPEARANCES: Ms A Miller for the Professional Conduct Committee
The practitioner in person

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Introduction

1. Dr Vetter was at material times a chiropractor practising in Havelock North. A Charge of professional misconduct was brought against her by a Professional Conduct Committee (PCC) of the New Zealand Chiropractic Board.
2. That Charge alleged that Dr Vetter conducted herself in an inappropriate and/or unprofessional manner and gave two particulars. The first of these referred to a failure on numerous occasions to create clinical records for her chiropractic patients; and the second a failure on numerous occasions to record an adequate patient assessment with detail given. The Charge is transcribed in full in the Schedule to this decision.
3. The Charge alleged that those particulars separately or cumulatively were misconduct under section 100(1)(a) and/or (b) of the Health Practitioners Competence Assurance Act 2003 (the HPCA Act).
4. The Charge was heard by the Tribunal on 12 October 2017. The PCC was represented by counsel and Dr Vetter appeared on her own behalf without representation of counsel.
5. Dr Vetter had written to the Tribunal in response to the Charge received effectively acknowledging it.
6. There was presented an Agreed Summary of Facts and Admission of Liability (ASF) dated 30 August 2017. This was signed by Dr Vetter and by counsel for the PCC. In addition to acknowledging alleged facts (referred to below), Dr Vetter also acknowledged noncompliance with the relevant professional standards and she admitted the Charge and that her conduct amounted to professional misconduct under both section 100(1)(a) and (b) of the HPCA Act.
7. There was also presented an affidavit from Dr John Hawtin, a registered chiropractor of Havelock North. He was unable to attend the hearing and therefore not available for questioning. The Tribunal has taken the content of his affidavit into account, giving it, as is permitted by clause 6(1) of Schedule 1 of the HPCA Act, the weight that the Tribunal considers is appropriate.

Facts

8. What follows is a summary of what was agreed in the ASF and/or is contained in the affidavit of Dr Hawtin and/or was stated or acknowledged by Dr Vetter at the hearing.
9. Dr Vetter graduated with a Bachelor of Science (Chiropractic) from the Royal Melbourne Institute of Technology in 2005 and was registered with the Chiropractic Board on 19 April 2007. She began practising as a chiropractor at Havelock North Chiropractic on or around 26 May 2007. That was the business name of Dr Vetter's own business, Vetter Chiropractic Limited, and that of Dr Hawtin's business, Hawtin Chiropractic Clinic Limited. Overheads were shared by the separate businesses and both Dr Vetter and Dr Hawtin had access to shared patients' records when required to provide cover or in an emergency.
10. Patient appointments and clinical records at Havelock North Chiropractic were kept using the Medtech32 practice management system. At the end of each day a "*Day Book*" was printed and generated a report of "*Exceptions*", including patients who had been seen but where no notes had been entered. Dr Vetter was provided with a copy of the Day Book and Exceptions list on a daily basis by front desk staff.
11. Around mid-2013 concerns were raised, by front desk staff, with Dr Hawtin that Dr Vetter was not acting on the Exceptions list and that it was common for whole days of patient lists to have no notes recorded. This concern was mentioned by Dr Hawtin to Dr Vetter.
12. Despite having been continued to be provided with the Exceptions list, Dr Vetter did not attend to completing the clinical records for patients she had seen but for whom no notes had been entered.
13. Between 26 March 2007 and 22 March 2016 (almost 9 years) there were 7,156 instances in which a patient was seen by Dr Vetter and no clinical notes were recorded.
14. Dr Vetter accepted that the Day Book and Exceptions list which was presented to the Tribunal was an accurate record from the Medtech32 system of the

patients seen by her but where she entered no notes of the consultation. She admitted that for the majority of those patients she did not create any clinical record whatsoever. Dr Vetter also acknowledged that she had a professional responsibility to record a patient's progress, including clinical presentation, examination data and the treatment provided at each appointment; and that on at least 7,000 occasions between 30 May 2007 and 22 March 2016 she failed to create clinical records for chiropractic patients that she had seen for chiropractic treatment.

15. In respect of the patient record inadequacy referred to in particular (b) of the Charge, on occasions Dr Hawtin and Dr Vetter would see each other's patients. Shared management of patients was conducted on the basis that continuity of care would be maintained by shared notes and communications; and both Dr Vetter and Dr Hawtin had access to shared patients' records.
16. Starting around late 2013 or early 2014 and continuing to December 2015 Dr Hawtin was concerned that Dr Vetter's patients' notes did not contain sufficient information to enable him to do a proper assessment or to continue with treatment. He raised these concerns with Dr Vetter informally on a number of occasions.
17. This included an occasion in or around June 2014 when Dr Hawtin raised his concerns with Dr Vetter that she had not maintained or recorded any x-ray measurements, factors or dosages for the previous year. Dr Vetter said that x-ray factors were handwritten on to new patient forms. The ASF said that Dr Vetter kept these forms in a bottom drawer in her desk with information not transferred to the Medtech32 system until March 2016. At the hearing Dr Vetter, who declined to give sworn evidence, said that in fact she had kept these records properly filed at the clinic and that when she came to leave the clinic she took them and filed them informally in the bottom drawer of her desk which were then placed in storage.
18. On 24 September 2014 when Dr Hawtin provided emergency care to one of Dr Vetter's patients, he checked the patient's notes and found only one record containing the only word "*improved*" for the previous 8 appointments. Again, Dr Hawtin informally raised his concern with Dr Vetter and told her that one

entry for 8 appointments was “*not good enough*” and Dr Vetter again agreed that she would do better.

19. In or around November 2015 Dr Hawtin undertook a review of some shared clients’ notes; and identified that many of these were incomplete or “*substandard*”. They did not record sufficient information to enable him to do a proper assessment. Dr Hawtin met with Dr Vetter on 12 November 2015 to discuss his concerns about the inadequacy of notes and Dr Hawtin told Dr Vetter that noting “*feeling fine*” or “*great*” as the sole entry in a patient’s notes did not constitute clinical notes.
20. In December 2015 Dr Hawtin made a complaint to the New Zealand Chiropractic Board regarding his concerns about Dr Vetter.
21. Dr Vetter acknowledges that her meetings with Dr Hawtin had informed her of his concerns about the inadequacy of her record-keeping, including her lack of record-keeping, and that this was intended to encourage her to modify her practice.
22. In the ASF Dr Vetter also acknowledged the applicable Code of Ethics and Standards of Practice (the Code) and the Competency-based Professional Standards for Chiropractors (the Standards). She acknowledged that she did not always comply with the Code relating to her clinical record-keeping and in particular acknowledged and accepted that adequate clinical records required her to record, for every patient and every appointment, the patient’s clinical presentation or history, examination data, imaging data (where relevant), specific treatment information and/or recommendations. She admitted that between around 30 May 2007 and 22 March 2016 she failed on numerous occasions to record an adequate patient assessment by failing to record one or more aspects of this information. Dr Vetter further accepted that randomly selected patient records obtained by the PCC were inadequate where:
 - 22.1. They record only simple and/or subjective comments such as “*improved*”.
 - 22.2. They do not record the patient’s clinical presentation.
 - 22.3. They do not record Dr Vetter’s examination findings; and

- 22.4. They do not record the treatment given to the patient.
23. Many of these agreed facts were affirmed by Dr Hawtin in his affidavit. Although he was not available to answer questions on it, the Tribunal can accept what he has said in the context of the agreed facts. He further said that he raised his concerns from time to time “*in a collegial way*” but that Dr Vetter “*did not really engage*” with him although she commented that she would try to do better.
24. Dr Hawtin said that as a result of the meeting in mid-2014 he “*placed Dr Vetter on verbal notice that her behaviour could not continue*”. Dr Hawtin did describe that the staff told him they “*felt intimidated by [Dr Vetter’s] behaviour*” but the Tribunal largely discounts this as being hearsay evidence not tested by any cross-examination. Dr Hawtin also said that he felt Dr Vetter’s response in November 2015 “*was dismissive and hostile*” (denied by Dr Vetter). He said that the absence of records was “*severely disruptive to [his] practice and very stressful for [him], but [he] wasn’t prepared to compromise [his] clinical standards*”.
25. Dr Hawtin said that Dr Vetter left the Havelock North Chiropractic premises in March 2016 to relocate her chiropractic practice to premises where she had already established a Pilates practice over the previous 5 years or so.
26. Dr Hawtin also said that since that time he had received many requests from chiropractors requesting a copy of patient records for Dr Vetter’s patients transferring to another practitioner and that he was forced to record that the notes “*were essentially blank until early 2016*”. Dr Hawtin said that it was of concern to him that Dr Vetter’s conduct reflected badly on him and his practice as a chiropractor. He said he had no understanding as to why Dr Vetter chose not to keep records or to keep inadequate or substandard records. The record-keeping system was, he said, electronic and readily available to both to use.
27. Dr Hawtin further said that the issues with Dr Vetter had had “*a highly personal impact on [him, his practice and his family] (some of whom were in [his] practice)*.” He said he was “*acutely aware of the impact of Dr Vetter’s behaviour on the clinic staff and the stress that she put them under*”. He further said that he had lost 3 other staff members “*due to Dr Vetter’s behaviours*” but

there was not the opportunity to explore that allegation further and, in the absence of any background, the Tribunal discounts that.

28. Dr Hawtin's evidence also referred to standards and expressed his opinion on these issues, but the Tribunal does not attach weight to that. Dr Hawtin was not giving evidence as an expert but as to matters of fact and, despite the professional standing that he has, the Tribunal accepts his evidence only in the context of factual matters expressed by him.
29. In her unsworn statement to the hearing by the Tribunal Dr Vetter said that Dr Hawtin had access to the x-ray factors information and the unit was in his room. She said in the x-ray factors always were in an accessible handwritten form. Dr Vetter referred frankly to the time when for her the "*wheels had completely fallen off*"; she had pregnancies with two babies and her father had health issues; and that this was not an easy period. She described herself as "*horrified*" and "*really embarrassed*" but denied Dr Hawtin's statement that her attitude was "*hostile*". Dr Vetter said that she was not disputing the Charge and informally produced to the Tribunal information concerning changes that she had made to her professional practice and private life since the events to which the Charge refers.

The Charge - discussion

30. The Tribunal finds the Charge made out as laid by the PCC. The essential facts are admitted to by Dr Vetter who also acknowledges breaches of appropriate standards and misconduct under the HPCA Act.
31. Quite independently of those admissions and acknowledgements, the Tribunal finds the Charge made out. The records from the clinic including especially the Day Book with "*Exceptions*" clearly acknowledges and records Dr Vetter having seen some 7000 chiropractic patients over the 9-year period where no notes were entered by Dr Vetter, she having seen the patients.
32. Although Dr Vetter provided to the PCC certain handwritten records of patients she had seen, there was contention as to whether these had been adequately filed or were found in her bottom drawer. The Tribunal does not need to reconcile that difference because these records do not form part of the Charge;

the Charge relating to patients who were seen but for whom there was **no** record. The Tribunal accepts the submission for the PCC that the small selection of handwritten notes does not excuse the significant number of clinical notes which were entirely absent.

33. As to the records concerning the patients shared between Dr Vetter and Dr Hawtin, the Tribunal was taken through the detail of many of these. Representative entries of inadequacies included “*on the improve*”, “*much improved*”, “*more falling!!!!*”, “*cough cough cough*”, “*gardening!!!!*”, “*was hit in the jaw*”, “*slipped on wet*”, and the like.
34. There were in place during the period to which the Charge refers Codes of Ethics, Standards of Practice and Competency-Based Professional Standards for chiropractors. These were promulgated by the New Zealand Chiropractic Board pursuant to operative provisions of the HPCA Act. The Code of Ethics and Standards of Practice, effective November 2004 included provision for information that should be included in a Health History (clause 3.1), the proper process for adequate case management (clause 3.4) and the record of patients’ progress recommended to be kept (clause 4.6.3). The Competency-Based Professional Standards for Chiropractors, effective 2010 contained provisions concerning recording examination data in writing (clause 5.2.9), correlating imaging data with clinical findings and noting this in the patient’s file (clause 5.3.7) and the evaluation of patient history and examination information (clause 7.1.1).
35. Submissions for the PCC referred to excerpts from other cases before the Tribunal where a charge included inadequate documentation for specific patients¹ and the Tribunal has taken these into account. Particularly in *Dr Gouse* the Tribunal said:²

“... Note-keeping should not be regarded as a minor matter. A detailed note recording diagnosis and formulation, assessment of Mrs L’s mental state, her current symptoms, her psychiatric history, a treatment plan and the reason for that treatment plan were imperative. It is the Tribunal’s view that they are serious matters and they reflect upon Dr P’s clinical competency because his failure to

¹ *Dr Gouse* 30/Med05/11D; *Dr Parker* 310Chiro09/121D; *Tunncliff* 570Nur13/248P; and *Dr Zimmerman* 19/Den05/05D

² Paragraph 31

document (other than in his GP letters) did not allow him (or any doctor assuming Mrs L's care) to subsequently re-examine the conclusions, diagnosis and plan to see whether the conclusions were still valid, whether there has been any documented change in the patient's mental state, whether there had been any change in the symptoms and thus, whether any change in the treatment plan was warranted. The lack of history also meant that if there were errors in the doctor's understanding of the history they could not be subsequently corrected. Thorough note taking is the cornerstone of safe and effective medical practice. Poor note-taking provides a poor support for clinical practice for either Dr P or any other person reviewing his notes and continuing or amending the treatment plan which had been prescribed."

and³

"The conduct complained of amounts to malpractice. The Tribunal regards note taking as an important part of a medical practitioner's role. It should show a doctor's observations, history, the thinking about diagnosis and a plan. It is not just window dressing or of minor importance to a doctor's clinical skill. It is an important discipline necessary for the proper clinical management of the patient".

On appeal to the High Court the judgment included⁴

"... For the reasons expressed by the Tribunal meticulous record-keeping is a fundamental obligation of the practitioner".

36. In *Tunncliff* emphasis was placed⁵ on the need for continuity of record for (in that case) the nurse herself and also the continuity of record and clarity of assessment and application for consideration by other health professionals who may have become involved in the patient's care.
37. There has been a clear failure by Dr Vetter to create adequate clinical records. This has happened on numerous occasions and includes the 7000 instances over the 9-year period to which particular (a) of the Charge relates. There has also been a clear failure by Dr Vetter to record adequate patient assessment on the numerous occasions referred to in particular (b) of the Charge. The entries to which the Tribunal's attention was drawn make this quite clear. The severity of this aspect is aggravated by the fact that Dr Hawtin drew the inadequacies to Dr Vetter's attention but she did nothing to improve things. In mitigation, the

³ Paragraph 63

⁴ *J v Director of Proceedings* Auckland High Court CIV - 2006 -404 - 2188; 17 October 2006 at [63]

⁵ Paragraph 30

Tribunal notes said there were times when the notes kept by Dr Vetter did appear to be reasonably adequate and comprehensive.

38. These failures by Dr Vetter to record as required by the Codes and Standards referred to in respect of those patients has placed them at risk. The first risk is that Dr Vetter herself would rely on her memory in respect of subsequent treatment but should instead be relying on clear and concise records. The second risk is that, by failing to take notes and keep records, Dr Vetter may not be addressing all of the questions that she needs to for a proper consultation. Structured notes are a valuable *aide memoire* and should be used for that purpose. The third risk is that, if another practitioner is providing health services to a patient, the history of the patient's treatment by another health practitioner, in this case a chiropractor, is relevant and the notes should show what had occurred on the previous consultations occasions.
39. Having said that, the Tribunal notes, however, that any chiropractor undertaking treatment of any patient must take into account all relevant matters including treatment history and there would be a significant measure of likelihood that the treatment that the patient had received from Dr Vetter would be disclosed by the patient. The reality is that an individual chiropractor is unlikely to rely heavily on the notes that had previously been kept; but that does not excuse failure to keep an adequate record. In relation to x-ray records, the requirement for these to be kept are statute-based and must be complied with.
40. There was malpractice and negligence on Dr Vetter's part in these failures and they constitute acts and omissions which bring discredit to her profession. The Charge in both of its particulars is made on its facts as misconduct.
41. It is required in any charge of misconduct against a health practitioner that there be the further decision made in the Tribunal's discretion as to whether this is of sufficient severity to warrant disciplinary sanction for the purpose of maintaining standards in the profession, protecting the public or, to the extent relevant and necessary, punishing the practitioner. Punishment is not an objective in itself but it is in some cases required to maintain standards and protect the public and to act as deterrence.

42. In this case the Tribunal is quite satisfied that the failures on Dr Vetter's part, constituting misconduct as has been found, are of sufficient severity to warrant disciplinary sanction. Dr Vetter needs to know, and the profession needs to know, that failures of this kind place the public at risk and lower standards in the profession. Disciplinary sanction is required to underline this message, both to Dr Vetter and to others in her profession.
43. Counsel did responsibly also refer to the following extract from the *Zimmerman* decision:⁶

“In this case Dr D’s records were so grossly inadequate a disciplinary sanction is required in order to maintain professional standards. It is unusual for a health practitioner to be sanctioned in a disciplinary forum because of the inadequacy of their records. However in this case, Dr [D] has fallen so far below accepted standards the Tribunal believes it must record a disciplinary finding on Dr [D]. Part of the reason for taking this step is to reinforce to the profession the need for adequate records to be kept by all dentists” [emphasis added].

44. That case involved a specific patient for the health practitioner, a dentist. Treatment of her by him was over the period from May 2002 to February 2003. Particulars of the charge focused on the specific treatment given by the dentist to his patient, but there was the further particular of inadequate note-keeping described by one of the expert witnesses as “*poor*”.
45. It was submitted by the PCC in the present case that standards could be said to have changed over the years since that decision was made; but furthermore, there is, even applying the principles from that extract, a breach of standards in the present case which falls well below expected standards such that a disciplinary finding is required. The Tribunal need make no definitive decision on the former submission because it accepts the latter submission and finds that the inadequacy of Dr Vetter's record-keeping fell well below accepted standards.

Penalty

46. After the decision had been announced submissions were made by the PCC and by Dr Vetter as to the appropriate penalty or orders to be made by the Tribunal.

⁶ Paragraph 150

47. The available penalties for the Tribunal are⁷
 - 47.1. That registration be cancelled.
 - 47.2. That registration be suspended for a period not exceeding 3 years.
 - 47.3. That the health practitioner be required, after commencing practice following the date of the order, for a period not exceeding 3 years, to practise his or her profession only in accordance with any conditions as to employment, supervision, or otherwise specified.
 - 47.4. Censure.
 - 47.5. A fine of up to \$30,000.00 (but not if he or she has been convicted of a relevant offence or damages have been awarded against him or her – not the case here).
 - 47.6. Costs.
48. The eight factors normally taken into account on the basis of authorities⁸ are:
 - 48.1. What penalty most appropriately protects the public
 - 48.2. The important role of setting professional standards.
 - 48.3. A punitive function.
 - 48.4. Rehabilitation of the health professional.
 - 48.5. That any penalty imposed is comparable to other penalties imposed upon health professionals in similar circumstances.
 - 48.6. Assessing the health practitioner's behaviour against the spectrum of sentencing options that are available and trying to ensure that the maximum penalties are reserved for the worst offenders.
 - 48.7. An endeavour to impose a penalty that is the least restrictive that can reasonably be imposed in the circumstances.
 - 48.8. Whether the penalty proposed is fair, reasonable and proportionate in the circumstances presented.

⁷ Section 101 of the HPCA Act

⁸ *Roberts v Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354; *Katamat v PCC* [2012] NZHC 1633 at paragraph 49 and *Joseph v PCC*; [2013] NZHC 1131 at [65] – [66]; *Singh v Director of Proceedings*, [2014] NZHC 2848 (esp. paragraphs [56] – [60] and [66])

49. The PCC submitted that the penalties of censure, suspension for a period (and did not nominate an appropriate period) and certain conditions on Dr Vetter's practice should be ordered. It referred to other cases mentioned below. It referred to certain features which it said were "*aggravating*", namely the length of time involved, the scale of offending, the possible risks to patients, and the fact that Dr Hawtin had raised his concerns with Dr Vetter in an attempt to have her modify her practice but she had failed to do so.
50. In reply, Dr Vetter acknowledged again that the Charge was made out and she further acknowledged the severity of it. She said she took full responsibility for what had occurred. It is to her credit that she has done so. She referred to personal factors concerning her pregnancies, health of family members, and financial questions for her. She said that she tried to give best care to her patients and practising as a professional chiropractor was a privilege for her.
51. Dr Vetter did say that since the matter had come to her attention the PCC had found no inadequacies in her note-taking. The Tribunal notes that, although Dr Vetter's first response to the New Zealand Chiropractic Board is dated 1 March 2016, there were some entries subsequent to that date in the "*Exceptions*" listing in the Day Book where there is still the entry "*Seen but no notes entered*". This was, however, only in respect of a few patients over a few days and the Tribunal accepts that there is no evidence before it of any concerns after that time.
52. Dr Vetter gave details of her current position and working environment, including in the context of care for her young children. She gave assurances to the Tribunal that the stressors and factors which had caused the failures to which the Charge refers were now past and that she was practising in a competent and adequate manner.
53. Each case must be decided on its own merits, but the Tribunal must take into account other decisions so as to maintain some measure of consistency. The four cases to which the PCC referred in its submissions were briefly:
 - 53.1. *Dr Zimmerman* where the particular of the charge found to have been made out concerned "*grossly inadequate*" records as noted above and the Tribunal censured Dr Zimmerman with an order for costs.

- 53.2. *Dr Gouse*, where the charges against him included failure to document adequately the care of specific patients. The Tribunal ordered supervision for 18 months with particular focus on clinical record-keeping and prescribing practices; and with their requirements to undertake face-to-face meetings with his supervisor on at least two occasions and to have regular offsite review with his supervisor.
- 53.3. *Dr Parker*, a chiropractor against whom charges, including failure adequately to document, were found to be made out. Dr Parker was suspended for 18 months with a requirement that he satisfy the Chiropractic Board that he had undertaken training on various topics; and for supervision for a period of 18 months including monitoring of his caseload.
- 53.4. *Ms Tunnicliff*⁹ where the Tribunal had found the nurse had failed to keep clinical records of appointments with 87 patients over a two-year period. A period of suspension imposed by the Tribunal was reduced on appeal by the High Court to 6 months; and there were conditions imposed with supervision for two years.
54. In this case Dr Vetter has failed to meet her professional obligations over the lengthy period of 9 years in respect first of the 7000 patients for whom no record was kept; and secondly, the patients shared with Dr Hawtin in respect of whom inadequate notes and records were kept.
55. This merits an order for censure by the Tribunal to express its concern at the inadequacies and the misconduct involved.
56. The Tribunal considered carefully the propriety of an order for suspension but, taking into account the other cases referred to it by the PCC as mentioned and taking into account the personal circumstances, the Tribunal is of the view that the matter can be dealt with by other orders including supervision and completion of an appropriate course on adequate note-taking. Those conditions are imposed below but there is no order for suspension.
57. The Tribunal weighed carefully whether there should be a fine imposed, but took the view that, although this may well be necessary in another case of

⁹ 570/Nur13/248P

equivalent kind, in the particular circumstances of Dr Vetter's position and the facts of the case, no order for fine was necessary in this case. A substantial order for contribution to costs is made below and that will have a financial effect on Dr Vetter (although, of course, an order for contribution to costs should not be treated as a penalty as such, although it is included in the list in section 101 of the HPCA Act).

58. The conditions, which the Tribunal can only order for a maximum period of 3 years are:
 - 58.1. For supervision of Dr Vetter as a chiropractor for 18 months from the day 4 weeks after the date of this decision; to be at Dr Vetter's cost by a supervisor nominated or approved by the New Zealand Chiropractic Board, with the supervisor reporting to the New Zealand Chiropractic Board at least 3-monthly or more often as directed by the New Zealand Chiropractic Board; and with express focus on adequacy of note-keeping and completion of appropriate courses of education in relation to that matter.
 - 58.2. That Dr Vetter complete within 6 months of the day 4 weeks after the date of this decision (or such further period as may be fixed by the New Zealand Chiropractic Board having regard to the availability of appropriate courses) at Dr Vetter's own cost such course on adequate note-taking as is approved by the New Zealand Chiropractic Board or as is determined by it.
59. The PCC also sought a condition concerning disclosure of the Tribunal's decision and orders to any employer or any chiropractor with whom Dr Vetter may work in a shared practice environment. The Tribunal does not consider that such a condition is necessary. Detail of the decision and reasons behind it, the fact of censure and the outcome, will be readily available on proper inquiry from any employer or person with whom Dr Vetter is in a practice environment and the Tribunal does not consider that further condition is needed.

Costs

60. The PCC sought an order for costs referring to normal principles and advised that its expected costs were of the order of \$43,936.61. The Tribunal's own costs were estimated at \$18,118.00. This gives a total cost of greater than \$62,000.00.
61. The Tribunal has taken into account such information as Dr Vetter provided concerning her means. The normal starting position is an order for 50% of costs which can be increased or reduced depending on the circumstances. Any costs not awarded against Dr Vetter must be met by the chiropractic profession of which she is a member.
62. In this case Dr Vetter has co-operated fully with the PCC and with the Tribunal and has assisted the smooth flow of the hearing of the Charge against her. That justifies a reduction in the percentage of costs. She has supplied details of her means to meet an order for costs. The appropriate percentage, after taking that reduction into account, is approximately 33% and the Tribunal considers that an order for \$20,000.00 is appropriate.

Result and orders

63. The Charge is found to be made out as misconduct in all its particulars under both section 100(1)(a) and (b) of the HPCA Act.
64. The Tribunal orders censure of Dr Vetter.
65. The Tribunal orders that immediately upon commencing practice following the day 4 weeks after the date of this decision the following conditions are to apply to Dr Vetter's practice:
 - 65.1. For supervision of Dr Vetter as a chiropractor for 18 months; to be at Dr Vetter's cost by a supervisor nominated or approved by the New Zealand Chiropractic Board, with the supervisor reporting to the New Zealand Chiropractic Board at least 3-monthly or more often as directed by the New Zealand Chiropractic Board; and with express focus on adequacy of note-keeping and completion of appropriate courses of education in relation to that matter.

- 65.2. That Dr Vetter complete within 6 months (or such further period as may be fixed by the New Zealand Chiropractic Board having regard to the availability of appropriate courses) and at Dr Vetter's own cost, such course on adequate note-taking as is approved by the New Zealand Chiropractic Board or as is determined by it.
66. The Tribunal orders that Dr Vetter contribute the sum of \$20,000.00 towards the costs of the PCC and of the Tribunal to be divided as to two-thirds of that sum, \$13,333.33, to the PCC and the remainder, \$6,666.67 to the Tribunal.
67. Suppression of Dr Vetter's name is not sought by her but the Tribunal has already made an order for permanent suppression of the names and identifying details of all patients who may be the subject of the Charge.
68. The Tribunal directs the Executive Officer:
- 68.1. To publish this decision, and a summary, on the Tribunal's website;
- 68.2. To request the New Zealand Chiropractic Board to publish either a summary of, or a reference to, the Tribunal's decision in its next available publication to members, in either case including a reference to the Tribunal's website so as to enable interested parties to access the decision.

DATED at Auckland this 22nd day of November 2017

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David M Carden
Chairperson
Health Practitioners Disciplinary Tribunal

SCHEDULE

Pursuant to section 81(2) of the Act, the Professional Conduct Committee lays a charge that between on or around 30 May 2007 and 22 March 2016, when practising as a chiropractor at Havelock North Chiropractic, Ms Vetter conducted herself in an inappropriate and/or unprofessional manner by:

- (a) Failing on numerous occasions to create clinical records for her chiropractic patients, including approximately 7,000 instances over nearly 9 years in which patients were seen but no notes were entered.*

- (b) Failing on numerous occasions to record an adequate patient assessment, including by failing to record one or more of the following information: the patient's clinical presentation and/or history, examination data, imaging data, or specific treatment information and/or recommendations.*

The conduct alleged above either separately or cumulatively amounts to professional misconduct pursuant to section 100(1)(a) and/or 100(1)(b) of the Act.