

Practitioner ordered not to reapply for registration

3 March 2015

The Queensland Civil and Administrative Tribunal has found that Dr Patrick O'Brien behaved in a way that constituted unsatisfactory professional conduct, and ordered him to not reapply for registration as a health practitioner.

The Dental Board of Australia referred the matter to the tribunal, alleging that Dr O'Brien had behaved in a way that constituted unsatisfactory professional conduct while treating patients at the 1300Smiles Pty Ltd clinics in Mackay and Rockhampton.

Concerns about Dr O'Brien's conduct date back to March 2009, when the former Dental Board of Queensland, which had registered Mr O'Brien, received a notification alleging Dr O'Brien was performing oral sedation without the required endorsement to do so.

As the conduct occurred before the introduction of the National Law, the Board made its submission under the Health Practitioners (Disciplinary Proceedings) Act 1999.

In its submission to the tribunal, the Board alleged that Dr O'Brien had administered oral conscious sedation to nine patients, including the drug midazolam, between February and December 2008. At the time, dentists were only permitted to administer conscious sedation to a patient if they had undergone the necessary and approved training. Midazolam is a restricted drug of dependency under the *Health Drugs and Poisons Regulation 1996 (Qld)*, and the regulation states that a person must not administer a restricted drug without endorsement.

Dr O'Brien admitted that certain aspects of his treatment of patients using midazolam constituted unsatisfactory professional conduct.

He also admitted to failing to inform patients of the particular risks associated with the use of midazolam. In particular, Dr O'Brien conceded he had not informed two patients that midazolam should not be administered to people of their age. He admitted that his patients recovered from oral conscious sedation in a recliner chair without automated monitoring equipment or continued care from trained staff. He conceded he had allowed one patient to be discharged while sedated, and admitted to carrying out oral conscious sedation on one patient without the written consent of their parent.

In June 2013, Dr O'Brien began to negotiate with the Board, and while he had retired from practice by this time, he was still registered. In August 2013, Dr O'Brien became unwell, and tribunal proceedings were placed on hold. Dr O'Brien's registration lapsed in January 2014, and proceedings resumed in July 2014. In September 2014, Dr O'Brien gave an undertaking to not seek to be registered as a dental practitioner in Australia and agreed to pay the Board's costs.

The tribunal found that Dr O'Brien had engaged in unsatisfactory professional conduct, and ordered him to not apply for registration as a health practitioner in Australia, and to not seek to end the agreement he made with the Board in September 2014.

The tribunal said it would have suspended his registration had Dr O'Brien been registered at the time of the decision.

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

For more information

Lodge an [online enquiry form](#)

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