

The Chinese Medicine Registration Board of Victoria (the Board) was established by the *Chinese Medicine Registration Act 2000* (the Act). *The Health Professions Registration Act 2005* (the HPR Act) continued the legal status of the Board beyond the repeal of the Act on 30 June 2007. In regard to certain proceedings the HPR Act enables an enquiry or investigation to proceed as though the Act had not been repealed. The purpose of both Acts is to protect the public. The Board registers Chinese medicine practitioners, approves courses of training and conducts investigations into complaints about the professional conduct or fitness to practice of registered practitioners.

## Decision and Reasons

<b>Practitioner:</b>	Reza Gholamreza Ghaffurian Kermanipour
<b>Counsel Assisting the Board:</b>	Rachel Ellyard, instructed by DLA Phillips Fox
<b>Counsel for the Practitioner:</b>	Sara Hinchey, instructed by Lander & Rogers
<b>Panel:</b>	David Halstead (Lawyer and Chair) Peter Gigante (Practitioner member) Jocelyn Bennett (Lay member)
<b>Date:</b>	30 August 2007

**Catchwords:** *misleading claims about qualifications; use of testimonials; promotion of "cancer products"; use of remote consultations and herbal medicine claims and prescribing practices; serious unprofessional conduct.*

This is a record of proceedings of a formal hearing before a panel appointed by the Board pursuant to section 45 of the Act. The record contains details of the evidence and submissions the panel considered relevant, but does not purport to cover all of the material placed before it.

### SUMMARY

At the formal hearing Dr Ghaffurian agreed that he had engaged in unprofessional conduct in relation to his practice of Chinese medicine by (i) making misleading claims in relation to qualifications, (ii) his use of testimonials and failing to follow a direction from the registrar of the Board, (iii) targeting cancer patients and promotion of 'cancer products', (iv) use of remote consultations, and (v) his dispensing and labelling of herbal medicines practices. He also agreed the activities in (iii) and (iv), involved unprofessional conduct of a serious nature.

The panel found that the use of testimonials and failing to follow a direction from the registrar of the Board referred to in (ii) also amounted to unprofessional conduct of a serious nature. The panel further found that the conduct referred to in (i) and (v) amounted to unprofessional conduct not of a serious nature.

The panel determined that in relation to each of the five findings of unprofessional conduct Dr Ghaffurian be cautioned against repetition and reprimanded. The panel imposed an aggregate fine of \$4,000 in regard to the three findings of unprofessional conduct of a serious nature. The fine is to be paid to the Board by 31<sup>st</sup> October 2007.

The panel also determined, in regard to the three findings of unprofessional conduct of a serious nature, that a condition be placed on Dr Ghaffurian's registration whereby

he be required to, for a period of 12 months commencing on 1<sup>st</sup> October 2007, attend fortnightly one hour sessions at his own expense with an experienced practitioner mentor chosen in consultation with the Board, such practitioner mentor to report to the Board at the end of the 12 months period.

## **THE COMPLAINTS**

1 The complaints are set out in the Notice of Hearing, forming part of exhibit **B1**. Further details of these allegations are set out later in the notice. The allegations are that the practitioner was engaged in unprofessional conduct of a serious nature in relation to the following matters: -

- Misleading claims in relation to qualifications;
- Use of testimonials;
- Targeting cancer patients and promotion of 'cancer products';
- Use of remote consultations;
- Herbal medicine claims and prescribing practices.

## **ADMISSIONS**

In a Statement of Agreed Facts filed on the morning of the hearing the practitioner and the Board agreed that: -

### **1. Registration & Qualifications**

- 1.1 In March 2002, Dr Ghaffurian filled out and signed an application form to become registered with the Board in the Divisions of Acupuncture and Chinese Herbal Medicine.
- 1.2 Dr Ghaffurian holds a Bachelor's degree in Science (1996).
- 1.3 Dr Ghaffurian holds a Bachelor's degree in Applied Science (Chinese Medicine) (1999).
- 1.4 On 4 June 2002, Dr Ghaffurian became registered with the Board in the division of Acupuncture and Chinese Herbal Medicine. He renewed his registration in these divisions in 2003-2007 inclusive.
- 1.5 Dr Ghaffurian was at all times a Director of the company trading as "Energy Medicine Clinic" (ABN 43 560 287 181) located a Suite 734, Level 7, No 1 Queens Road, Melbourne, Victoria.
- 1.6 At all relevant times Energy Medicine Clinic maintained a website a [www.energymedicineclinic.com.au](http://www.energymedicineclinic.com.au) (the Website).

**2. Statements in relation to qualifications**

2.1 At various times since at least 22 December 2006, Dr Ghaffurian has referred to himself in the following manner:

- (a) Dr Reza Ghaffurian B.Med (Chin) B.Sc (on the Website);
- (b) Dr Reza Ghaffurian B.Med (Chinese Med) B.App.Sci.,B.Biol.Sci (on labels attached to prescribed medicine);
- (c) Dr Reza Ghaffurian B.Med (Chin Med) B.Bio Sc., B.App Sci (RMIT, Nanjing) CMRB (on his business card);
- (d) Dr Reza Ghaffurian B Med (ChinMed) CMRB BAppSc., BBioSc. (on the Energy Medicine Clinic letterhead)

2.2 Each one of these references was incorrect. Dr Ghaffurian should at all times have referred to himself in the following way: “Dr Reza Ghaffurian B.Sc, B.AppSci (Chin Med).”

2.3 From at least 22 December 2006 onwards, on the Website Dr Ghaffurian claimed:

- (a) to have a “Western medical background”;
- (b) that he “first studied Medicine and Surgery at the Universities of Bolgna and Milan, before coming to Australia”;
- (c) that he was a “qualified Western scientist as well as a Doctor of Chinese Medicine, with a Western understanding.”

2.4 These statements were references, *inter alia*, to first second and third year studies in Medicine and Surgery, undertaken part time by Dr Ghaffurian in Italy at the Universities of Bologna, Milan and Palermo between 1972 and 1988.

2.5 Insofar as these statements conveyed to patients or potential patients that Dr Ghaffurian holds a Western Medical Degree, he acknowledges that they were misleading or deceptive.

2.6 It is accepted that Dr Ghaffurian’s conduct as described above:

- (a) was inappropriate; and
- (b) amounted to unprofessional conduct within the meaning of s.3(a) and/or (b) of the Act.

2.7 Whether the unprofessional conduct was of a serious nature is a matter to be determined by the Panel.

### 3. Testimonials

3.1 From at least 22 December 2006 – late April 2007 in breach of s.63(1) of the *Chinese Medicine Registration Act 2000* (the Act), Dr Ghaffurian maintained a testimonials link on his website the Website which contained six testimonials from patients or purported patients.

3.2 Despite the board advising Dr Ghaffurian:

(a) in a letter dated 2 February 2007 (but received well after that date); and

(b) during a meeting with the Registrar of the Board on 27 March 2007

that publication of testimonials was illegal and prohibited under the Act and that Dr Ghaffurian should remove them, the testimonials were continually displayed between late February 2007 – late April 2007.

3.3 It is accepted that Dr Ghaffurian’s breach of the Act and failure to follow a direction from the registrar of the Board:

(a) was inappropriate; and

(b) amounted to unprofessional conduct within the meaning of s.3(a) and/or (b) of the Act.

3.4 Whether the unprofessional conduct was of a serious nature is a matter to be determined by the Panel.

### 4. Promotion of “Cancer Products”.

4.1 Dr Ghaffurian’s Website included *inter alia*, information on treatment of cancer and the side effects of chemotherapy and radiotherapy.

4.2 From at least 22 December 2006 until the present time the Website reproduced at least six articles relating to cancer and its treatment.

4.3 From at least 22 December 2006 until about 7 March 2007, the link for cancer products contained information on “ChemoRelief” and “RadioRelief” (**the cancer products**). The cancer products were the only products marketed on the website.

4.4 From at least 22 December 2006 until about 7 March 2007, the Website made numerous claims as to the effectiveness and benefit of the cancer products including:

(a) that the cancer products were “the safest way to reduce side effects of radiotherapy and chemotherapy”;

- (b) that Dr Ghaffurian had “developed and tested new natural medicines on many cancer patients in Victoria to reduce the side effects and enhance the outcome” of chemotherapy and radiotherapy;
  - (c) that “these medicines DO NOT interfere with either chemotherapy or radiotherapy programs. They are compatible”;
  - (d) that the cancer products “are designed to improve immunity, reduce side effects of vomiting, nausea and plummeting blood cell count”;
  - (e) that use of the cancer products “overall enhances the positive effects of Radiation and Chemotherapy Treatments while reducing the number of sessions, because cancer can reduce, or in some cases disappear.”
- (the claims)**

4.5 In breach of s.63(1)(a) and/or (d) of the Act, the claims were made in circumstances where:

- (a) the information about the cancer products was not accurate;
- (b) the cancer products have not been proven to be effective as claimed;
- (c) no independent research in support of the claims had been carried out into the benefits of the cancer products;
- (d) Dr Ghaffurian was representing that he could treat and/or in some cases assist in curing cancer when he had no credible basis for making such claims.

4.6 It is accepted that the conduct described above:

- (a) was inappropriate;
- (b) amounted to unprofessional conduct within the meaning of s.3(a) and/or (b) of the Act in that it created an expectation of beneficial treatment and/or constituted misleading and deceptive advertising; and
- (c) that the behaviour was serious in nature.

## **5. Remote Consultations and prescribing practices**

5.1 On the Website, until 29 August 2007 a link was maintained that makes it possible for patients and prospective patients to download a two page “Patient Symptom Questionnaire”.

5.2 From at least 29 July 2007 until 29 August 2007, on the Website Dr Ghaffurian had advised patients that his “design specific alternative medicine can be mailed anywhere in the world.”

- 5.3 On the website it was requested that patients fill out the “Patient Symptom Questionnaire” and fax it to Dr Ghaffurian for the purpose, *inter alia*, of prescribing Chinese Herbal Medicine.
- 5.4 Where patients had filled out the “Patient Symptom Questionnaire” and faxed it to Dr Ghaffurian for the purpose, *inter alia*, of receiving Chinese Herbal Medicine, Dr Ghaffurian prescribed, prepared and dispatched such medicine to the patient in circumstances where he:
- (a) did not always require those patients to attend an “in person” consultation;
  - (b) may have merely telephoned the patient to ask them further questions;
  - (c) had only limited information about the patient’s medical history, condition and symptoms.
- 5.5 In behaving in this way, Dr Ghaffurian acknowledges that he put his “remote” patients at risk and increased the chance of misdiagnosis or improper treatment as:
- (a) he had not been able properly to observe/assess them;
  - (b) he had not been able to assess them physically;
  - (c) he had not been in a position to assess non-verbal cues/messages;
  - (d) he had not been able to form a proper patient-practitioner relationship with the patient;
  - (e) he may not have been able to obtain proper levels of informed consent from the patient;
  - (f) the medicine prescribed for the patient may not have been appropriate.
- 5.6 It is accepted that Dr Ghaffurian’s conduct described above:
- (a) was inappropriate;
  - (b) amounted to unprofessional conduct within the meaning of s.3(a) and/or (b) of the Act; and
  - (c) that the behaviour was serious in nature.

## **6. Dispensing and labelling of herbal medicine**

- 6.1 On the website Dr Ghaffurian made the following claims:

- (a) that “our tailor-made prescriptions are not just empty promises... They really work”;
  - (b) that “our individual formulas are specialist designed and not available anywhere else”;
  - (c) that the medicines were “especially made into prescriptions for each person’s specific case”.
- 6.2 The Chinese Herbal Medicine which Dr Ghaffurian prescribed and dispensed to patients contained:
- (a) no individualised information other than the patient’s name and date of dispensing the medicine on the label;
  - (b) no information on the active ingredients of the prescription;
  - (c) insufficient information about the contents of the herbal medicine in the event of an adverse reaction/emergency.
- 6.3 It is accepted that in this respect Dr Ghaffurian’s conduct:
- (a) was inappropriate;
  - (b) amounted to unprofessional conduct within the meaning of s.3(a) and/or (b) of the Act; and
- 6.4 Whether the unprofessional conduct was of a serious nature is a matter to be determined by the Panel.

## **THE APPLICABLE LAW**

- 2 Section 168 of the HPR Act enables the Board after the repeal of the Act to continue an investigation or enquiry commenced prior to such repeal as though the Act had not been repealed.
- 3 Division 3 of Part 3 of the Act governs the establishment of and procedures for formal hearings, and the findings and determinations available to a panel.
- 4 The onus is upon the Board to prove its case.
- 5 The panel should rationally consider probative evidence only. See e.g. *Epeabaka v Minister for Immigration etc.* 1997 150 ALR 397 at 406.
- 6 The panel is obliged to apply the principles of natural justice.
- 7 Regarding the standard of proof applied when the panel is considering evidence, the test enunciated in the matter of *Briginshaw v Briginshaw* (1938) 60 CLR 336

applies. The panel when finding facts should consider when judging the evidence whether it is comfortably satisfied on the balance of probabilities. The more serious to a practitioner the consequences of a finding, the stronger the evidence is required to be.

- 8 Section 3 of the Act defines "unprofessional conduct".
- 9 Section 63(1) of the Act prohibits a person from advertising a Chinese medicine practice or services in a manner which refers to or quotes from testimonials or purported testimonials.
- 10 The Board has, pursuant to section 68(1)(h) of the Act issued and published *Guidelines for Registered Practitioners For the Practice of Chinese Herbal Medicine* dated August 2006.
- 11 There is much case law involving "unprofessional conduct" and related concepts and the findings and determinations appropriate in particular matters some of which was referred to by counsel. The cases referred to included decisions of earlier formal hearing panels established under the Act, decisions of hearing panels established by other Victorian health registration boards, VCAT (*Parr v Nurses Board of Victoria – unreported 1998*, *Exler v. The Dental Practice Board – 2005* and *Honey v. the Medical Practitioners Board of Victoria - 2007*) the Supreme Court of Victoria (*Ha v. Pharmacy Board of Victoria* [2002] VSC 332, *Peeke v. The Medical Board of Victoria an unreported decision of Marks J. in 1993*, *Mullany v. The Psychologists Registration Board of Victoria an unreported decision of Gillard J. in 1997* and *Domburg v. Nurses Board of Victoria* [2000] VSC 369), and *Healthcare Complaints Commission v. Litchfield* (1997) 41 NSWLR 630. The panel notes that these cases deal with a variety of factual situations and that it must judge Dr Ghaffurian's case on its merits but accepts that this case law is helpful to it in forming its findings and determinations.

## **DISCUSSION OF THE EVIDENCE REGARDING FINDINGS OF FACT**

- 12 The practitioner has conceded that his conduct relating to his targeting of cancer patients and promotion of 'cancer products, and his use of remote consultations amounted to unprofessional conduct of a serious nature.
- 13 He has also conceded that his conduct relating to his misleading claims in relation to qualifications, his use of testimonials and his dispensing and labelling of herbal medicines practices amounted to unprofessional conduct. It is for this panel to decide whether any of these unprofessional conduct matters amount to unprofessional conduct of a serious nature within the definition in section 48(1)(a) of the Act.
- 14 With regard to qualifications Ms Ellyard submitted that the conduct, which was not an isolated incident, involved giving a deeply misleading impression about the practitioner's training and experience and invited a conclusion that he was in fact a medical doctor. Ms Hinchey submitted that her instructions were that Dr Ghaffurian had reasonable grounds for referring to his degree from Deakin University as a "Bachelor of Biological Science" and referred to exhibit G1 as support for that proposition. Regarding claiming to have qualifications tending towards medicine, Ms Hinchey stated her instructions were that he was informed

in China that this was appropriate; that “B Med” is always followed by “Chin Med” on the various documents; that other well regarded individuals behave similarly (exhibit G2) and that he has in fact studied for part of a medical qualification in Italy. Through his counsel he undertook to correct all the materials referring to his qualifications as soon as practicable.

- 15 While the panel does not accept the entirety of the practitioner’s submissions and considers that Dr Ghaffurian’s behaviour in regard to qualifications shows at the least a recklessness to the possibility that part of his qualifications may be misinterpreted, it does not consider the behaviour on the facts of this particular case to be of sufficient magnitude to be classified as serious, given the undertaking referred to.
- 16 With regard to his dispensing and labelling of herbal medicines practices, the panel did not find it easy to decide whether or not the admitted conduct was of a serious nature. Ms Ellyard emphasised the view that in the event of difficulties or interactions involving the herbal medicines it would be difficult for a patient to obtain properly targeted medical care and that the practice breaches the Board’s Guidelines. The panel was also conscious that in the context of a practice targeting cancer victims the possibilities for something going wrong are greater than they might otherwise be. Ms Hinchey noted that in the matter of Dias Ruhl, which she argued involved a more serious prescribing transgression, a finding was made that the unprofessional conduct was not of a serious nature. Also that she was instructed that Dr Ghaffurian’s practice was to put the phone number of his clinic on the label. Further that if the clinic was unattended, the recorded message provided a phone number to ring for advice and assistance at any time. The panel on balance does not find the behaviour on the facts of this particular case to be of sufficient magnitude to be classified as serious. It relies in part upon the accuracy of counsel’s instructions about the after hours number. The panel however does not accept that this is an acceptable practice in the circumstances where herbal medicine prescribed has not been accurately described.
- 17 Turning finally to the practitioner’s use of testimonials on his website, Ms Ellyard emphasised the continuation of their use after warnings from the Registrar of the Board, the specific prohibition in section 61(1)(3) of the Act, the reference to them on the website after their removal, her view that the use appears not be a momentary lapse but rather a considered course of conduct and the quantity of the Board’s dissemination of its views about the use of testimonials as displayed on the Board website and in its newsletters.
- 18 Ms Hinchey reminded the panel that there was no admission of any breach beyond the period from 22/12/2006 to late April 2007, and that the panel should take account of the practitioner’s response. The panel should also note that, as not disputed by Ms Ellyard, the Board’s letter sent on 2/02/2007 was misdirected and not received until 13/03/2007. Ms Hinchey invited the panel to view the practitioner’s behaviour as proof of his naivety, for example when in discussion with the registrar he maintained his view that testimonials were acceptable. She said her instructions were that Dr Ghaffurian worked long hours, that he was not previously aware of his responsibilities and that the hearing process had been a learning experience. His steps to remove the material from his website were delegated to another person and he did not pay attention to the site. The panel should when considering whether the behaviour was serious consider the

subjective aspect of the test. Dias Ruhl should be distinguished as being a case where there was no argument about the subjective intention of the practitioner.

- 19 The practitioner chose not to give sworn testimony and expose himself to cross-examination. The panel gives due weight to the instructions given by him to his counsel but obviously less than would be given if it had been satisfied of the facts asserted after sworn testimony. The panel finds that the admitted unprofessional conduct in regard to testimonials was serious. In its view, like all practitioners Dr Ghaffurian should have better kept himself informed of his professional obligations in regard to testimonials, that he continued to use them despite contact from the Board 13 March and 27 March 2007, and that his explanation for the lapse continuing (delegation to another) is neither convincing nor sufficient.

#### **FORMAL FINDINGS MADE PURSUANT TO SECTION 48(1) OF THE ACT**

20 For each of the allegations about the practitioner's conduct with regard to:

- Misleading claims in relation to qualifications, and
- Dispensing and labelling of herbal medicines.

the panel finds that Dr Ghaffurian engaged in unprofessional conduct not of a serious nature and being:

- of a lesser standard than that which the public might reasonably expect of a registered practitioner, and
- of a lesser standard than that which might reasonably be expected of a registered practitioner by his peers.

21 For each of the allegations about the practitioner's conduct with regard to:

- Use of testimonials,
- Targeting cancer patients and promotion of cancer products, and
- Use of remote consultations

the panel finds that Dr Ghaffurian engaged in unprofessional conduct of a serious nature and being:

- of a lesser standard than that which the public might reasonably expect of a registered practitioner, and
- of a lesser standard than that which might reasonably be expected of a registered practitioner by his peers.

## **DETERMINATIONS MADE PURSUANT TO SECTION 48(2)&(3) OF THE ACT**

- 22 The panel will deal with each of the above findings in turn, given its accepted obligations to consider the issues of general and specific deterrence, public safety and public confidence in the profession. The panel is aware its obligation is to protect rather than punish, and that it should consider any remorse shown and the likelihood of repetition of the behaviours under consideration.
- 23 The panel considers each finding requires a determination that the practitioner be cautioned against a repetition of the behaviours which gave rise to the finding. This caution is to ensure that the practitioner is aware of the fact that a future panel or tribunal considering its determinations after any future lapse would have these current determinations brought to its attention and might be requested to impose a more significant outcome affecting the practitioner's registration status. The panel also considers that each finding requires a determination that the practitioner be reprimanded, and that fines be imposed in regard to each of the 3 findings of unprofessional conduct of a serious nature.
- 24 Counsel expressed differing views about whether determinations in the nature of fines applying to multiple findings should attract separate fines or whether a global fine is appropriate. This panel's view is that a global fine is appropriate subject to the panel making clear which findings attracted a fine. The panel took into consideration the admissions made by Dr Ghaffurian, which allowed for a shorter hearing, when determining the quantum of the global fine. Ms Hinchey stated that her instructions were that the practitioner and his family were financially stressed, and relied on exhibits G3 to G6 inclusive in support of a submission that a fine would be excessive because of these circumstances. The panel considered this submission. As Dr Ghaffurian could not be cross-examined, the information provided was scanty and as certain of the payments referred to in the documents appear to involve repayment of loans taken out for the purchase of real estate, the panel was not swayed from its view that a fine was appropriate.
- 25 In regard to the three serious unprofessional conduct findings Ms Ellyard asked the panel to impose a condition that Dr Ghaffurian attend a course in ethics in addition to undergoing a mentoring process monthly for 12 months and a fine. The panel determined against imposing the course of study as it felt it would be more effective for a condition to be placed on Dr Ghaffurian's registration requiring him to, for a period of 12 months commencing on 1<sup>st</sup> October 2007, attend fortnightly one hour supervision sessions at his own expense with an experienced practitioner mentor chosen in consultation with and approved by the Board, such practitioner mentor to report to the Board after satisfactory completion of the supervision. This condition is to be monitored and adjusted as necessary by the registrar of the Board. The supervision is to encompass: -
- Avoiding use of testimonials;
  - The practice of treating cancer patients and promotion of 'cancer products';
  - Use of remote consultations;

The panel's determinations are as follows: -

- 26 Misleading claims in relation to qualifications. The practitioner has admitted to unprofessional conduct. The claims made were significant and appear designed to attract patients. The panel determines to caution in the terms described above and to reprimand Dr Ghaffurian.
- 27 Dispensing and labelling of herbal medicines. The practitioner has admitted to unprofessional conduct. The lapse here was significant and had a potential to cause harm. The panel determines to caution in the terms described above and to reprimand Dr Ghaffurian.
- 28 Use of testimonials. Specific and in particular general deterrence factors influenced the panel. A strong message needs to be sent to all practitioners that the use of testimonials is both illegal and unprofessional. The panel determines to caution in the terms described above and to reprimand Dr Ghaffurian. Additionally a fine will be imposed forming part of a global fine of \$4,000 which the practitioner will be required to pay to the Board by 31 October 2007. A condition will be imposed on Dr Ghaffurian's registration requiring him to, for a period of 12 months commencing on 1<sup>st</sup> October 2007, attend fortnightly one hour supervision sessions at his own expense with an experienced practitioner mentor chosen in consultation with and approved by the Board, such practitioner mentor to report to the Board after satisfactory completion of the supervision. This condition is to be monitored and adjusted as necessary by the registrar of the Board. The supervision is to encompass: -
  - Avoiding use of testimonials
  - The practice of treating cancer patients and promotion of 'cancer products'
  - Use of remote consultations
- 29 Targeting cancer patients and promotion of cancer products. Considerations of specific and general deterrence influenced the panel in its determination. The panel considers the targeting of these vulnerable patients for commercial gain in this manner a most undesirable practice. The panel determines to caution in the terms described above and to reprimand Dr Ghaffurian. Additionally a fine will be imposed forming part of a global fine of \$4,000 which the practitioner will be required to pay to the Board by 31 October 2007. A condition will be imposed on Dr Ghaffurian's registration requiring him to, for a period of 12 months commencing on 1<sup>st</sup> October 2007, attend fortnightly one hour supervision sessions at his own expense with an experienced practitioner mentor chosen in consultation with and approved by the Board, such practitioner mentor to report to the Board after satisfactory completion of the supervision. This condition is to be monitored and adjusted as necessary by the registrar of the Board. The supervision is to encompass: -
  - Avoiding use of testimonials
  - The practice of treating cancer patients and promotion of 'cancer products'
  - Use of remote consultations

- 30 Use of remote consultations. Considerations of specific and general deterrence influenced the panel in its determination. The panel considers remote consultation a potentially hazardous practice not consistent with proper Chinese medicine principles. The panel determines to caution in the terms described above and to reprimand Dr Ghaffurian. Additionally a fine will be imposed forming part of a global fine of \$4,000 which the practitioner will be required to pay to the Board by 31 October 2007. A condition will be imposed on Dr Ghaffurian's registration requiring him to, for a period of 12 months commencing on 1<sup>st</sup> October 2007, attend fortnightly one hour supervision sessions at his own expense with an experienced practitioner mentor chosen in consultation with and approved by the Board, such practitioner mentor to report to the Board after satisfactory completion of the supervision. This condition is to be monitored and adjusted as necessary by the registrar of the Board. The supervision is to encompass: -
- Avoiding use of testimonials
  - The practice of treating cancer patients and promotion of 'cancer products'
  - Use of remote consultations

## **PUBLICATION**

- 31 Section 168(2) of the HPR Act requires the Board to give effect to a decision made on an enquiry, investigation or appeal or further proceeding (commenced before 1 July 2007) completed by the board or VCAT as if it were a decision under this Act.
- 32 Section 75(1) of the HPR Act requires the Board, where a panel has determined to suspend registration or impose conditions on registration, to give notice on its website.
- 33 Section 75(3) of the HPR Act empowers but seemingly does not require the Board to give notice in the Government Gazette, to health practitioner registration authorities in other states, territories and New Zealand, to the Health Services Commissioner, to certain Commonwealth funding agencies and, upon request, to ex-Australian health registration authorities. This provision contrasts with section 56 of the CMR Act which mandates notifications of the type referred to by the HPR Act.
- 34 Section 75(5) of the HPR Act requires the above notifications to be given *as soon as practicable*.
- 35 Section 75(6) of the HPR Act requires the Board to notify the notifier within 28 days of the results of any panel *hearing arising from that notification* unless the Board does not consider notification to be in *the public interest*.
- 36 Section 79 of the HPR Act mandates the publication of VCAT outcomes by the Board in the same way the Board is required to publish by section 75.
- 37 This panel recommends to the Board that the following notifications be made: -
- On the CMRB website

- In the CMRB newsletter
- In the Government Gazette
- To the Health Services Commissioner
- To the notifier

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Panel Chair