

## CHIROPRACTIC BOARD OF AUSTRALIA v DR MALCOLM HOOPER

### 1. On the 4 June 2013, the Tribunal made the following findings :

- *The Respondent engaged in unprofessional conduct in that he failed to make a proper assessment of the Notifier before embarking on hyperbaric and Lokomat treatment;*
- *The Respondent engaged in professional misconduct in that he failed to obtain informed consent from the Notifier for the treatment that he administered between August 2007 and May 2008;*
- *The Respondent engaged in unprofessional conduct in that he failed to prepare a treatment plan for the Notifier;*
- *The Respondent engaged in unprofessional conduct in that he failed to modify a treatment plan for the Notifier;*
- *The Respondent engaged in unprofessional conduct in that he failed to monitor outcomes for the treatment he provided to the Notifier;*
- *The Respondent engaged in professional misconduct in that he misrepresented the likely efficacy of his treatment to the Notifier;*
- *The Respondent engaged in professional misconduct in that he undertook misleading and deceptive advertising about 30 forms of treatment that he offered; and*
- *The Respondent engaged in unprofessional conduct in that he generated inadequate clinical records in relation to the treatment provided to the Notifier;*

### 3. On the 2 August 2013 the Tribunal ordered:

- *The respondent is reprimanded.*
- *The respondent's registration as a chiropractor, is cancelled, such cancellation to take effect 28 days from the date of this order.*
- *The respondent is disqualified from re-applying for registration as a chiropractor, for a period of two years from the commencement of the cancellation of his registration.*
- *The respondent's undertaking given to this Tribunal in writing and dated 18 July 2013 is accepted.*
- *The respondent pay the applicant's costs of this proceeding, such costs to be taxed by the Costs Court*

**4. The undertakings by the Respondent dated 18 July 2013 are contained in paragraph 7 Pages 8 and 9 of the VCAT Reasons for Decision:**

*A. The Respondent Dr Malcolm R Hooper undertakes to provide the following information to prospective patients and/or their parents or guardians as the case may be who present to him for treatment in relation to one or more of the conditions set out in paragraph B below:*

- 1. The provision of hyperbaric oxygenation treatment for the condition is novel.*
- 2. The consensus of expert medical opinion in Australia and in the scientific literature is that such treatment for the condition is of little or no benefit.*
- 3. The provision of such treatment is relatively safe but is not free from risk, including the risk of short term myopia, barotrauma, claustrophobia, fitting in epileptics, pneumothorax (and any other material risk pertaining to the particular patient).*
- 4. There are or may be other treatment options (specifying such options).*
- 5. The likely treatment cost.*
- 6. The proposed treatment plan, including its likely duration, intensity and overall cost, what physical demands are likely to be made of the patient and the support that they may require.*

**B. The conditions (as accepted by VCAT) are:**

- (1) soft tissue musculoskeletal injuries;*
- (2) fracture repair;*
- (3) acute and chronic spinal instability;*
- (4) facet dysfunction;*
- (5) disc protrusion;*
- (6) canal stenosis;*
- (7) inflammatory arthritides;*
- (8) spinal cord neuropathy due to crush and neurovascular degeneration;*
- (9) paraplegia and quadriplegia due to incomplete neurovascular compression;*
- (10) peripheral nerve injury and neuropathies;*
- (11) cerebrovascular stroke;*
- (12) multiple sclerosis;*
- (13) multi-infarct dementia;*

- (14) *paediatric cerebral palsy*
- (15) *Parkinson's disease;*
- (16) *Alzheimer's disease;*
- (17) *Autism;*
- (18) *epilepsy due to hypoxia;*
- (19) *coronary heart disease;*
- (22) *acute and chronic arterial insufficiency;*
- (24) *hepatitis.* ( 21 items )

**C. *The Respondent further undertakes not to provide hyperbaric oxygenation treatment in respect of the following conditions:***

- (14) *adult cerebral palsy;*
- (20) *heart insufficiency (post-surgical);*
- (21) *heart contractile dysfunction;*
- (23) *gastric and duodenal ulcers;*
- (25) *diabetes;*
- (26) *lung abscess;*
- (27) *pulmonary embolism (as an adjunct to surgery);*
- (28) *complications of pregnancy (including gestational diabetes, eclampsia, heart disease, placental hypoxia, foetal hypoxia and congenital disease of the neonate);*
- (29) *infertility; and*
- (30) *reducing risk of cancer cell mutation.* (10 items)