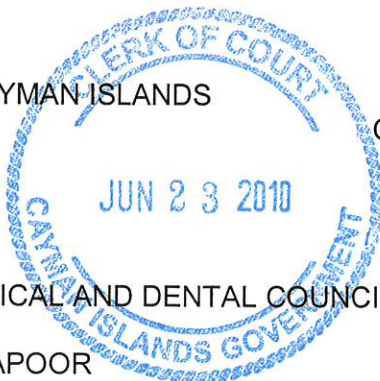


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 233 OF 2010

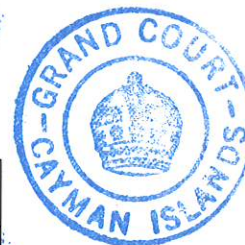


BETWEEN: REGINA

AND: THE MEDICAL AND DENTAL COUNCIL RESPONDENT

EX PARTE: SONIA KAPOOR APPLICANT

APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW



To the Clerk of the Court, Law Courts, George Town, Grand Cayman	
Name, address and description of applicant(s)	Dr Sonia Kapoor, c/o Chrissie Tomlinson Memorial Hospital, Walkers Road, George Town, Grand Cayman, KY1-1104, Medical Practitioner.
Judgment, order, decision or other proceeding in respect of which relief is sought	The failure of the Medical and Dental Council to consider or grant the Applicant's application for registration as a specialist Dermatologist.
Relief Sought	
Judicial review in the form of an order of Mandamus to oblige the Respondent to consider and grant the Applicant's application for registration as a specialist Dermatologist in accordance with its statutory duty under the Health Practice Law (2005 Revision) and the Health Practice Registration Regulations (2005 Revision).	
Name and address of applicant's attorneys, or, if no attorneys acting, the address for service of the applicant	Walkers Walker House PO Box 265GT George Town Grand Cayman KY1-9001 Cayman Islands
Signed <i>Walker</i>	Dated 23/6/10

GROUND ON WHICH RELIEF IS SOUGHT

THE FACTS

1. The Respondent has failed to discharge its statutory duties in respect of the Applicant's professional registration.

2. The Applicant is a qualified doctor currently practising from the Chrissie Tomlinson Memorial Hospital in George Town, Grand Cayman. She has been registered with the Medical and Dental Council since 2003. Prior to commencing practice she undertook a substantial period of postgraduate training in the United States specialising in Dermatology and Cutaneous Surgery. During her time in Grand Cayman she has practised exclusively in the field of Dermatology, first as Chief of Dermatology at the George Town Hospital and subsequently as Chief of the Department of Dermatology and Dermatological Surgery at the Chrissie Tomlinson Memorial Hospital. At all material times she has described herself as a Dermatologist.
3. In April 2009 the Applicant received a letter from the Respondent alleging that she was guilty of various infractions of professional regulations by reason of describing herself as a Dermatologist. It subsequently transpired that by reason of an administrative error she had been registered as a medical doctor without reference to her specialism. An application to rectify this issue was made in February 2010, since which time the Medical and Dental Council has failed to consider or adjudicate upon the application. No explanation for this has been forthcoming.

THE LAW

4. By virtue of section 21 of the Health Practice Law (2005 Revision) the Respondent is obliged to register and regulate doctors and dentists practising within the Cayman Islands. Under section 24 of that Law the Council is obliged to register a practitioner where various conditions are met. These conditions have been met in respect of the Applicant who has been registered as a medical doctor.
5. Section 27 further provides that "Each of the Councils may approve any registered practitioner as a specialist if the Council is satisfied that the practitioner meets the requirements to be a specialist in accordance with rules provided under section 28 (2)(j)" Section 28(2)(j) creates a power for the Governor to make Regulations as to the rules of competence in order to determine whether a practitioner may be registered as a specialist, which is reflected in Regulation 5(3) of the Health Practice Regulations (2005 Revision) whereby in order to apply for registration as a specialist medical doctor it is necessary to provide "written evidence that he has obtained the necessary post

graduate qualifications and completed at least three years' specialist training in posts recognised for such training by the Medical and Dental Council".

6. The Applicant has provided evidence demonstrating that she has completed and exceeded the requirements in respect of postgraduate study. She is able to practice and describe herself as a Dermatologist in both the United Kingdom and the United States. She therefore satisfies all statutory criteria for registration as a specialist, notwithstanding which her application has been met with only unparticularised allegations of misconduct, a complete lack of expedition in dealing with the application itself and what the Applicant believes to be a strategy of deliberate delay on the part of the Respondent.
7. The criteria for specialist registration having been defined by the Health Practice Regulations, the Respondent I does not have any discretion to either refuse to consider an application or indeed to substitute alternative or additional criteria upon which to determine such an application. Furthermore, as a statutory body it is incumbent upon the Respondent to discharge its duties in a manner which is reasonable.
8. Notwithstanding the straightforward nature of the Applicant's application for specialist registration, almost 4 months have now elapsed without the matter being considered or scheduled for consideration, nor has any indication been given of when this might take place. The Applicant contends that the evidence supports an inference of deliberate prevarication on the part of the Respondent. In the circumstances it is further contended that the continuing failure of the Respondent to both consider and grant the Applicant's application for registration as a specialist dermatologist is irrational, given that she clearly satisfies the applicable guidelines.

Dated this 23rd day of June 2010



WALKERS
Attorneys at Law for the Applicant

This Application is issued by Walkers, Attorneys at Law, Walker House, 87 Mary Street, George Town, Grand Cayman KY1-9001, for the whose address for service is care of said Attorneys at Law.