

Before the Electrical Workers Registration Board

CE No. 22661

In the matter of:

A disciplinary hearing before the Electrical Workers Registration Board

Between:

The Ministry of Business Innovation and Employment

And

Gurdeep Singh a registered and licensed electrical worker (E 281340, EW 134459, Electrician) (the Respondent)

Decision of the Board in Respect of the Conduct of an Electrical Worker Under section 147G and 147M of the Electricity Act 1992

Hearing Location:

Auckland

Hearing Type:

In Person

Hearing and Decision Date:

20 April 2023

Board Members Present:

Mr R Keys, Registered Inspector (Presiding)

Ms M Kershaw, Registered Electrician

Mr M Macklin, Registered Inspector

Ms A Yan, Registered Electrical Engineer

Mr M Perry, Registered Electrician

Mr M Orange, Barrister

Appearances:

J Barlow for the Investigator

Procedure:

The matter was considered by the Electrical Workers Registration Board (the Board) under the provisions of Part 11 of the Electricity Act 1992 (the Act), the Electricity (Safety) Regulations 2010 (the Regulations) and the Board's Disciplinary Hearing Rules.

Board Decision:

The Respondent **has** committed disciplinary offences under sections 143(b)(ii) and 143(f) of the Act.

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Summary of the Board’s Decision

- [1] The Respondent negligently created a risk of serious harm to any person, or a risk of significant property damage and provided two false or misleading returns. He is ordered to complete training and to pay costs of \$250. Until the Respondent completes the training the Respondent’s licence will be restricted. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

The Board

- [2] The Board is a statutory body established under the Electricity Act.¹ Its functions include hearing complaints about and disciplining persons to whom Part 11 of the Act.

Introduction

- [3] The hearing resulted from a complaint about the conduct of the Respondent and a report under section 147G(1) of the Act from the Investigator² that the complaint should be considered by the Board. Under section 147T of the Act, the Investigator must prosecute the matter at a Board hearing who may be represented by counsel.

¹ Section 148 of the Act.

² Under section 145 of the Act, an Investigator is appointed by the Chief Executive of the Ministry

- [4] The Respondent was served with a notice setting out the alleged disciplinary offences the Investigator reported should be considered by the Board. They were:

First Alleged Disciplinary Offence

1. Between 1 November 2022 and 24 November 2022 at [Omitted], Mr Gurdeep Singh has carried out or caused to be carried out prescribed electrical work in a manner contrary to any enactment relating to prescribed electrical work that was in force at the time the work was done being an offence under section 143(a)(ii) of the Act, IN THAT, he:

- (a) Failed to ensure that all electrical connections and terminations were electrically and mechanically secure; and/or
- (b) Failed to ensure that openings of a gap greater than 5mm on top of the switchboard were sealed with fire retardant material.

In breach of regulations 13, 20, and 59 of the Electricity (Safety) Regulations 2010.

Or in the Alternative

2. Between 1 November 2022 and 24 November 2022 at [Omitted], Mr Gurdeep Singh has carried out or caused to be carried out prescribed electrical work in a negligent or incompetent manner being an offence under section 143(a)(i) of the Act, IN THAT, he

- (a) Failed to ensure that all electrical connections and terminations were electrically and mechanically secure; and/or
- (b) Failed to ensure that openings of a gap greater than 5mm on top of the switchboard were sealed with fire retardant material.

Or in the Alternative

3. Between 1 November 2022 and 24 November 2022 at [Omitted], Mr Gurdeep Singh has negligently created a risk of serious harm to any person, or a risk of significant property damage, through having carried out or caused to be carried out prescribed electrical work being an offence under section 143(b)(ii) of the Act, IN THAT, he:

- (a) Failed to ensure that all electrical connections and terminations were electrically and mechanically secure; and/or
- (b) Failed to ensure that openings of a gap greater than 5mm on top of the switchboard were sealed with fire retardant material.

Second Alleged Disciplinary Offence

4. On or around 18 November 2022 at [Omitted], Mr Gurdeep Singh has provided a false or misleading return being an offence under section 143(f) of the Act, IN THAT, he provided a Certificate of Compliance for work that was not carried out lawfully or safely.

Third Alleged Disciplinary Offence

5. On or around 24 November 2022 at [Omitted], Mr Gurdeep Singh has provided a false or misleading return being an offence under section 143(f) of the Act, IN THAT, he provided a Certificate of Compliance for work that was not carried out lawfully or safely.
- [5] Prior to the hearing, the Respondent and the Board were provided with all of the documents the Investigator had in his/her power or possession.
- [6] No Board Members declared any conflicts of interest in relation to the matters under consideration.

Interim Suspension

- [7] On 2 February 2023, having been informed of the complaint, the Board decided that it would impose an interim suspension pending the completion of the investigation and the matter being determined. In accordance with section 147(3) of the Act, the interim suspension came to an end with the hearing and determination of the complaint.

Function of Disciplinary Action

- [8] The common understanding of the purpose of professional discipline is to uphold the integrity of the profession. The focus is not punishment, but the protection of the public, the maintenance of public confidence and the enforcement of high standards of propriety and professional conduct. Those purposes were recently reiterated by the Supreme Court of the United Kingdom in *R v Institute of Chartered Accountants in England and Wales*³ and in New Zealand in *Dentice v Valuers Registration Board*⁴.
- [9] Disciplinary action under the Act is not designed to redress issues or disputes between a complainant and a respondent. In *McLanahan and Tan v The New Zealand Registered Architects Board*,⁵ Collins J. noted that:

“... the disciplinary process does not exist to appease those who are dissatisfied The disciplinary process ... exists to ensure professional standards are maintained in order to protect clients, the profession and the broader community.”

- [10] The Board can only inquire into “the conduct of an electrical worker” with respect to the grounds for discipline set out in section 143 of the Act. It does not have any jurisdiction over contractual matters.

Procedure

- [11] The matter proceeded on the basis of an Agreed Statement of Facts.

³ *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.

⁴ [1992] 1 NZLR 720 at p 724

⁵ [2016] HZHC 2276 at para 164

Evidence

- [12] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed⁶. The Board notes, as regards evidence in proceedings before it, that the provisions of section 147W of the Act apply. This section states:
- In all proceedings under this Part, the Board may, subject to section 156, receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal effectively with the matter before it, whether or not it would be admissible as evidence in a court of law.*
- [13] The Board heard from the Respondent prior to it making a decision and it received a written statement from him.
- [14] As noted, the matter proceeded on the basis of an Agreed Statement of Facts. The Statement set out that the Respondent was engaged to carry out prescribed electrical work (PEW) in association with the installation of a heat pump, a switchboard replacement, and amendments to parts of existing wiring, including lighting circuits at the Property. This work was carried out as part of a Kainga Ora Healthy Homes upgrade programme.
- [15] Between 1 November 2022 and 7 November 2022, the Respondent completed the switchboard upgrade at the Property. At some stage during that period, the Respondent failed to properly terminate the bottom terminal of the hot water circuit breaker and the vertical stub of a connecting comb phase busbar.
- [16] The Respondent then returned to the Property on several occasions between 7 November and 21 November 2022 to carry out remedial work on lighting circuits which were not operating correctly. The Respondent mistakenly provided two Certificates of Compliance (COC) for the same work, one dated 18 November 2022 and one dated 24 November 2022.
- [17] On or about 25 November 2022, Mr Anesh Prasad visited the Property to inspect the switchboard. He signed a Record of Inspection (ROI). Later that day, the switchboard caught fire.
- [18] The Investigator sought an opinion from Mr Mark Carter, an Electrical Inspector. His report was provided to the Board. Mr Carter visually inspected the burnt switchboard and took photos of the switchboard. Mr Carter found:
- (a) There was evidence to support a finding that a fire had occurred inside the electrical switchboard as a direct result of an unreliable and loose termination between the bottom terminal of the hot water circuit breaker and the vertical stub of a connecting comb phase busbar. In Mr Carter's opinion, the Respondent had failed to ensure that all electrical connections and terminations were secure in breach of AS/NZS 3000 3.7.2.3.1.

⁶ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

- (b) The Respondent had failed to ensure that gaps in the switchboard over 5mm were sealed with fire retardant in breach of AS/NZS 3000 2.9.7. In his opinion, this failure was a contributing factor to the spread of the fire.
- (c) The Respondent had provided two COC's, both of which were false and misleading.

[19] Mr Carter noted that the fire had the potential to destroy property and lead to harm to persons, including possible loss of life.

[20] On 3 February 2023, the Respondent provided a response. He outlined that he believed, at the time of Mr Prasad's inspection, that everything was compliant and that he had, at the time, carried out the work correctly and to the best of his ability. Notwithstanding, the Respondent accepted that he had created a risk of serious harm to any person, or of significant property damage in respect of the allegations set out in the Notice of Proceeding. He further accepted that he provided two false and misleading CoC's in that the work had not been carried out lawfully or safely.

[21] The Investigator accepted that the Respondent had cooperated, accepted responsibility for the non-compliant PEW, and was remorseful.

[22] The Respondent, in his written statement, set out:

This is all I had to say about what happened, I have been working for the last 15 years, and I have done many switchboards and all the electrical work that an electrician does. I have never experienced such a thing. I did my job with the best knowledge and experience of my life. Even if the customers were not satisfied with the job or service I preferred being humble and making them happy and satisfied with my work. I never experienced any customer who was so rude that they did not allow me to do my job.

[23] At the hearing, the Respondent further accepted his wrongdoing, the impact of the interim suspension and stated that he is undertaking further learning.

[24] The general rule is that all facts in issue, or relevant to the issue in a case, must be proved by evidence. As the Investigator and Respondent agreed to the facts as outlined above, it was not necessary to call any further evidence or to test the evidence as outlined in the Statement.

Board's Conclusion and Reasoning

[25] The Board has decided that the Respondent **has** negligently created a risk of serious harm to any person, or a risk of significant property damage, through having carried out or caused to be carried out prescribed electrical work being an offence under section 143(b)(ii) of the Act, in that he failed to ensure that all electrical connections and terminations were electrically and mechanically secure, and failed to ensure that openings of a gap greater than 5mm on top of the switchboard were sealed with fire retardant material.

- [26] The Board has also decided that the Respondent provided two false or misleading returns being an offence under section 143(f) of the Act, in that he provided a Certificate of Compliance for work that was not carried out lawfully or safely.
- [27] The reasons for the Board's decisions follow.

Risk of Serious Harm

- [28] The charges put before the Board were laid in the alternatives of negligently creating a risk of serious harm to any person, or a risk of significant property damage under section 143(b)(ii) and, as alternatives, negligence, or incompetence under section 143(a)(i) and contrary to an enactment under section 143(a)(ii).
- [29] The Board's finding was that the conduct came within the provisions of section 143(b)(ii) of the Act in that the Respondent had negligently created a risk of serious harm to any person, or a risk of significant property damage.
- [30] Negligence is the departure by an electrical worker, whilst carrying out or supervising prescribed electrical work, from an accepted standard of conduct. It is judged against those of the same class of licence as the person whose conduct is being inquired into. This is described as the *Bolam*⁷ test of negligence which has been adopted by the New Zealand Courts⁸. An assessment of negligence in a disciplinary context is a two-stage test⁹. The first is for the Board to consider whether the practitioner has departed from the acceptable standard of conduct of a professional. The second is to consider whether the departure is significant enough to warrant a disciplinary sanction.
- [31] When considering what an acceptable standard is, the Board must have reference to the conduct of other competent and responsible practitioners and the Board's own assessment of what is appropriate conduct, bearing in mind the purpose of the Act¹⁰. The test is an objective one and, in this respect, it has been noted that the purpose of discipline is the protection of the public by the maintenance of professional standards and that this could not be met if, in every case, the Board was required to take into account subjective considerations relating to the practitioner¹¹.
- [32] Further, as regards acceptable standards, all prescribed electrical work must comply with the Electricity (Safety) Regulation 2010 and the cited Standards and Codes of Practice in Schedule 2 of the Regulations. As such, when considering what is and is not an acceptable standard, they must be taken into account.
- [33] On the basis of the evidence before the Board, including the Respondent's acceptance of the allegations and the expert's opinion that the work had not been

⁷ *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

⁸ *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

⁹ *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

¹⁰ *Martin v Director of Proceedings* [2010] NZAR 333 at p.33

¹¹ *McKenzie v Medical Practitioners Disciplinary Tribunal* [2004] NZAR 47 at p.71

completed to an acceptable standard, the Board finds that the prescribed electrical work had been carried out in a negligent manner.

- [34] With respect to a risk of serious harm or significant property damage, serious harm is defined in section 2 of the Act. It means:

death; or

injury that consists of or includes loss of consciousness; or

a notifiable injury or illness as defined in section 23 of the Health and Safety at Work Act 2015.

- [35] Significant property damage is not defined in the Act. Section 16(1)(b)(ii) of the Act, which relates to notification of accidents, also refers to serious harm and to property damage. In respect of damage, it requires notification where there is:

damage to any place or part of a place that renders that place or that part of that place unusable for any purpose for which it was used or designed to be used before that accident.

- [36] As section 16 refers to both serious harm and to damage, the Board considers significant property damage in section 143(b)(ii) should be interpreted in line with the definition in section 16(1)(b)(ii).

- [37] Actual serious harm or significant property damage need not occur. There need only be a risk that either might occur. The risk must be real in that there needs to be a material or substantial possibility, chance, or likelihood that serious harm or significant property damage will occur. A real risk has also been described as one that a reasonable person would not brush aside as being far-fetched or fanciful¹².

- [38] The Respondent's negligent prescribed electrical work resulted in a fire, and his failure to adequately seal openings in the switchboard contributed to the spread of that fire. As such, actual property damage occurred, and there was a very real risk of serious harm from that fire. Given those factors, the elements of the disciplinary offence have been satisfied.

False or Misleading Certification

- [39] The charges under section 143(f) of the Act related to the provision of a false or misleading return. In determining whether a return is false or misleading is a question of fact to be decided objectively, and the intention of the issuer is irrelevant¹³.
- [40] The returns referred to are issued under the Regulations. There is a requirement that an Electrical Safety Certificate be issued for all prescribed electrical work. It must contain a statement to the effect that the installation or part installation is connected to a power supply and is safe to use. There is also a requirement that a

¹² Overseas Tankship (UK) Ltd v Miller Steamship Co Pty Ltd (The Wagon Mound No 2) [1967] 1 AC 617

¹³ Taylor Bros Ltd v Taylor Group Ltd [1988] 2 NZLR 1

Certificate of Compliance is issued for high and general-risk prescribed electrical work. A Certificate of Compliance must state that the prescribed electrical work has been done lawfully and safely and that the information in the certificate is correct.

- [41] In this matter, the Respondent's certification stated the work was safe and lawful. It was not, and, as such, it follows that the offence has been committed.

Penalty, Costs and Publication

- [42] Having found that one or more of the grounds in section 143 applies, the Board must, under section 147M of the Act¹, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.
- [43] The Respondent made submissions at the hearing as regards penalty, costs and publication.

Penalty

- [44] The Board has the discretion to impose a range of penalties, which are set out in section 147M of the Act. Exercising that discretion and determining the appropriate penalty requires that the Board balance various factors, including the seriousness of the conduct and any mitigating or aggravating factors present.¹⁴ It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:¹⁵
- (a) protection of the public and consideration of the purposes of the Act;¹⁶
 - (b) deterring other Licensed Building Practitioners from similar offending;¹⁷
 - (c) setting and enforcing a high standard of conduct for the industry;¹⁸
 - (d) penalising wrongdoing;¹⁹ and
 - (e) rehabilitation (where appropriate).²⁰
- [45] Overall, the Board should assess the conduct against the range of penalty options available in section 318 of the Act, reserving the maximum penalty for the worst cases²¹ and applying the least restrictive penalty available for the particular offending.²² In all, the Board should be looking to impose a fair, reasonable, and

¹⁴ *Ellis v Auckland Standards Committee* 5 [2019] NZHC 1384 at [21]; cited with approval in *National Standards Committee (No1) of the New Zealand Law Society v Gardiner-Hopkins* [2022] NZHC 1709 at [48]

¹⁵ Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29]

¹⁶ Section 3 Building Act

¹⁷ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

¹⁸ *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724

¹⁹ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

²⁰ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354; *Shousha v A Professional Conduct Committee* [2022] NZHC 1457

²¹ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²² *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818

proportionate penalty²³ that is consistent with other penalties imposed by the Board for comparable offending.²⁴

- [46] In general, when determining the appropriate penalty, the Board adopts a starting point based on the principles outlined above prior to it considering any aggravating and/or mitigating factors present.²⁵
- [47] In this matter, the Board considered a restrictive penalty such as a suspension. It noted, however, that the Respondent's licence has been suspended since February 2023, and it considered that a further suspension would not be proportionate. It was, however, concerned as regards the Respondent's competence. As such, it decided that it would impose a training order to ensure that the Board would have confidence that he meets competence requirements. The training will be the completion of the Board's Stage 3 practical assessment. The training is to be completed at his expense and within six months of this decision being issued.
- [48] In addition to the above, the Board will restrict the Respondent's licence such that any general or high-risk prescribed electrical work and all work on switchboards that the Respondent carries out or supervises must be checked by another electrical worker who is authorised to carry out that work prior to it being connected and livened. The Respondent should note that the Board may, for the purposes of ensuring compliance with this condition, audit any work that the Respondent does carry out or supervise. The restriction will be lifted when the Board ordered training has been successfully completed.

Costs

- [49] Under section 147N of the Act, the Board may require the Respondent to pay the Board any sum that it considers just and reasonable towards the costs and expenses of, and incidental to the investigation, prosecution, and the hearing.
- [50] The Respondent should note that the High Court has held that 50% of total reasonable costs should be taken as a starting point in disciplinary proceedings and that the percentage can then be adjusted up or down having regard to the particular circumstances of each case²⁶.
- [51] In *Collie v Nursing Council of New Zealand*,²⁷ where the order for costs in the tribunal was 50% of actual costs and expenses, the High Court noted that:

But for an order for costs made against a practitioner, the profession is left to carry the financial burden of the disciplinary proceedings, and as a matter of policy that is not appropriate.

²³ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²⁴ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²⁵ In *Lochhead v Ministry of Business Innovation and Employment* 3 November [2016] NZDC 21288 the District Court recommended that the Board adopt the approach set out in the Sentencing Act 2002.

²⁶ *Cooray v The Preliminary Proceedings Committee* HC, Wellington, AP23/94, 14 September 1995, *Macdonald v Professional Conduct Committee*, HC, Auckland, CIV 2009-404-1516, 10 July 2009, *Owen v Wynyard* HC, Auckland, CIV-2009-404-005245, 25 February 2010.

²⁷ [2001] NZAR 74

[52] In *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society*,²⁸ the High Court noted:

[46] All cases referred to in Cooray were medical cases and the Judge was careful to note that the 50 per cent was the general approach that the Medical Council took. We do not accept that if there was any such approach, it is necessarily to be taken in proceedings involving other disciplinary bodies. Much will depend upon the time involved, actual expenses incurred, attitude of the practitioner bearing in mind that whilst the cost of a disciplinary action by a professional body must be something of a burden imposed upon its members, those members should not be expected to bear too large a measure where a practitioner is shown to be guilty of serious misconduct.

[47] Costs orders made in proceedings involving law practitioners are not to be determined by any mathematical approach. In some cases 50 per cent will be too high, in others insufficient.

[53] The Board has adopted an approach to costs that uses a scale based on 50% of the average costs of different categories of hearings, simple, moderate and complex. The current matter was moderate. Adjustments based on the High Court decisions above are then made.

[54] Based on the above, the Board's costs order is that the Respondent is to pay the sum of \$250 toward the costs of and incidental to the matter. In setting the amount of costs, the Board took into account that the Respondent had agreed to the matter proceeding by way of an Agreed Statement of Facts.

Publication

[55] As a consequence of its decision, the Respondent's name and the disciplinary outcomes will be recorded in the public register as required by the Act²⁹. The Board can, pursuant to section 147Z of the Act, also order publication over and above the public register notation. Under section 147Z of the Act, the Board may, if no appeal is brought within 20 working days of its decision, direct the Registrar to cause a notice stating the effect of the decision or order, the reasons for the decision or order, and (unless the Board directs otherwise) the name of the person in respect of whom the decision or order was made, to be published in the Gazette and any other publications as may be directed by the Board.

[56] As a general principle, such further public notification may be required where the Board perceives a need for the public and/or the profession to know of the findings of a disciplinary hearing. This is in addition to the Respondent being named in this decision.

[57] Within New Zealand, there is a principle of open justice and open reporting which is enshrined in the Bill of Rights Act 1990³⁰. The Criminal Procedure Act 2011 sets out

²⁸ CIV-2011-485-000227 8 August 2011

²⁹ Refer sections 128 of the Act

³⁰ Section 14 of the Act

grounds for suppression within the criminal jurisdiction³¹. Within the disciplinary hearing jurisdiction, the courts have stated that the provisions in the Criminal Procedure Act do not apply but can be instructive³². The High Court provided guidance as to the types of factors to be taken into consideration in *N v Professional Conduct Committee of Medical Council*³³.

- [58] The courts have also stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published in the public interest³⁴. It is, however, common practice in disciplinary proceedings to protect the names of other persons involved as naming them does not assist the public interest.
- [59] Based on the above, the Board will publish a general article in the Electron summarising the matter but will not order further publication. The Respondent will not be identified in the Electron.
- [60] The Respondent should also note that the Board has not made any form of order under section 153(3) of the Act, which allows for prohibition of publication.

Penalty, Costs and Publication Orders

- [61] For the reasons set out above, the Board directs that:

Penalty: Pursuant to section 147M(1)(e) of the Electricity Act 1992, the Respondent is ordered to satisfactorily complete the Board's Stage 3 Practical Assessment within six months and at his own cost.

And

Pursuant to section 147M(1)(c) of the Electricity Act 1992, the Respondent's licence is restricted in that any general or high-risk prescribed electrical work and all work on switchboards that the Respondent carries out or supervises must be checked by another electrical worker who is authorised to carry out that work prior to it being connected and livened.

Costs: Pursuant to section 147N of the Act, the Respondent is ordered to pay costs of \$250 (GST included) towards the costs of, and incidental to, the inquiry of the Board.

Publication: The Registrar shall record the Board's action in the Register of Electrical Workers in accordance with section 128(1)(c)(viii) of the Act.

The Respondent will be named in this decision.

A summary of the matter will be published by way of an article in the Electron which will focus on the lessons to be learnt from the case. The Respondent will not be named in the publication.

³¹ Refer sections 200 and 202 of the Criminal Procedure Act

³² *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350

³³ *ibid*

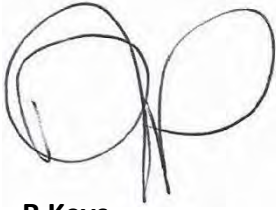
³⁴ *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

- [62] The Respondent should note that the Board may, under section 147R of the Act, suspend a licence or impose conditions on a licence, if he fails to complete the training as ordered.

Right of Appeal

- [63] The right to appeal Board decisions is provided for in sections 147ZA and 147ZB of the Actⁱⁱ.

Signed and dated this 16th day of May 2023



R Keys
Presiding Member

ⁱ **Section 147M of the Act**

- (1) *If the Board, after conducting a hearing, is satisfied that a person to whom this Part applies is guilty of a disciplinary offence, the Board may—*
- (a) *do 1 or more of the following things:*
 - (i) *order that the person's registration or practising licence (or both) be cancelled:*
 - (ii) *order that the person's provisional licence be cancelled:*
 - (iii) *order that the person may not apply to be reregistered or re-licensed before the expiry of a specified period:*
 - (b) *order that the person's registration or practising licence (or both), or the person's provisional licence, be suspended—*
 - (i) *for any period that the Board thinks fit; or*
 - (ii) *until that person does 1 or more of the things specified in subsection (2):*
 - (c) *order that the person's registration or practising licence (or both), or the person's provisional licence, be restricted for any period that the Board thinks fit, in either or both of the following ways:*
 - (i) *by limiting the person to the work that the Board may specify:*
 - (ii) *by limiting the person to doing, or assisting in doing, work in certain circumstances (for example, by limiting the person to work only on approved premises or only in the employ of an approved employer):*
 - (d) *order that the person be disqualified from doing or assisting in doing prescribed electrical work that the person would otherwise be authorised to do in that person's capacity as a person to whom this Part applies—*
 - (i) *permanently, or for any period that the Board thinks fit; or*
 - (ii) *until that person does 1 or more of the things specified in subsection (2):*
 - (e) *order the person to do 1 or more of the things specified in subsection (2) within the period specified in the order:*
 - (f) *order the person to pay a fine not exceeding \$10,000:*

-
- (g) order that the person be censured:
 - (h) make no order under this subsection.
 - (2) The things that the person can be required to do for the purposes of subsection (1)(b), (d), and (e) are to—
 - (a) pass any specified examination:
 - (b) complete any competence programme or specified period of training:
 - (c) attend any specified course of instruction.
 - (3) The Board may take only 1 type of action in subsection (1) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b), (c), (e) or (g).
 - (4) No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an—
 - (a) offence for which the person has been convicted by a court; or
 - (b) infringement offence for which the person has been issued with an infringement notice and has paid an infringement fee.
 - (5) The Board must not exercise any authority conferred by this section in respect of any offence committed by any person before the date of that person's registration or, as the case may be, the date on which that person's provisional licence was issued if at that date the Board was aware of that person's conviction for that offence.
 - (6) If a person is registered under Part 10 in respect of more than 1 class of registration, the Board may exercise its powers under subsection (1)(a) to (e) in respect of each of those classes or 1 or more of those classes as the Board thinks fit.]

ii Section 147ZA Appeals

- (1) A person who is dissatisfied with the whole or any part of any of the following decisions, directions, or orders may appeal to the District Court against the decision, direction, or order:
 - (e) any decision, direction, or order under any of sections 108, 109, 120, 133, 137, and 153 or Part 11 (except section 147C).

Section 147ZB Time for lodging appeal

An appeal under section 147ZA must be brought within—

- (a) 20 working days after notice of the decision, direction, or order was given to, or served on, the appellant; or
- (b) any further time that the District Court may allow on application made before or after the expiration of that period.