



PROFESSIONAL STANDARDS COMMITTEE INQUIRY

Constituted under Part 8 of *the Health Practitioner Regulation National Law (NSW)*

to hold an Inquiry into a Complaint in relation to:

Dr Samuel Tae-Kyu Kim
MED0001206762

Date/s of Inquiry:	16 & 17 February 2017
Written submissions:	20 March 2017
Committee members:	Ms Diane Robinson (Chair) Associate Professor Christopher Dennis Dr Katherine Ilbery Honorary Associate Professor Paul Macneill
Appearance for Health Care Complaints Commission:	Mr Feneil Shah, Legal Officer
Appearance for Dr Samuel Tae-Kyu Kim:	Ms Anne Horvath of Counsel instructed by Ms Amy Regan, Solicitor, HWL Ebsworth
Date of decision:	8 May 2017
Decision	The Committee made findings of unsatisfactory professional conduct and determined to reprimand Dr Kim and impose conditions on his registration.
Publication of decision:	Refer to page 21 of this decision for details of non- publication directions

REASONS FOR DECISION

THE COMPLAINT

1. In March 2013, Patient A made a complaint to the New South Wales Health Care Complaints Commission (the Commission) in relation to Dr Samuel Kim. After investigation by the Commission, a Complaint was prosecuted before this Professional Standards Committee, with the Commission's Director of Proceedings acting as nominal complainant.
2. Prior to and at the commencement of the Inquiry, the Commission sought leave to amend the Complaint. Dr Kim did not oppose these applications and leave was granted on both occasions.
3. The amended Complaint alleges that Dr Kim is guilty of unsatisfactory professional conduct, first on the basis that his conduct, as a specialist thoracic physician, was significantly below the standard reasonably expected of a practitioner with his training and experience, and secondly, it is alleged that Dr Kim's conduct in the practice of medicine was improper and unethical.
4. In summary, it is alleged that Dr Kim inappropriately prescribed and recommended hormone replacement therapy and vitamin B12 injections for Patient A. It is alleged that he referred Patient A to a number of 'esoteric practitioners', connected to 'Universal Medicine' and, in doing so, recommended treatments which were not effective evidence-based medical treatments. It is also alleged that Dr Kim did not explain the distinction between conventional and complementary treatment to Patient A and did not disclose his own connections to the esoteric practitioners and 'Universal Medicine'.
5. It is also alleged that Dr Kim acted contrary to the Medical Council of NSW's Complementary Health Care Policy and the Medical Board of Australia's Good Medical Practice: A Code of Conduct for Doctors in Australia.
6. The amended Complaint is set out in full in Annexure A to this decision.

LEGISLATIVE PROVISIONS

7. Unsatisfactory professional conduct is defined in section 139 of the Health Practitioner Regulation National Law NSW (the National Law). Section 139B (1) relevantly defines unsatisfactory professional conduct to include:
 - (a) **Conduct significantly below reasonable standard**
"Conduct that demonstrates that the knowledge, skill or judgment possessed, or care exercised, by the practitioner in the practice of practitioner's profession is significantly below the standard reasonably expected of a practitioner of an equivalent level of training or experience.
 - (l) **Other improper or unethical conduct**
"Any other improper or unethical conduct relating to the practice or purported practice of the practitioner's profession."

STANDARD OF PROOF

8. The Commission bears the onus of establishing that Dr Kim is guilty of unsatisfactory professional conduct.
9. The standard of proof required to establish the Complaints is the civil standard so the Committee must be reasonably satisfied on the balance of probabilities of the matters alleged against Dr Kim. However because of the seriousness of the allegations and the nature of their consequences, the Committee needs to be comfortably satisfied that the Complaints have been established on the Briginshaw principles (see *Briginshaw v Briginshaw* (1938) 60 CLR 336).

PRELIMINARY MATTERS

Documents

10. The Committee considered the documents provided by the parties. The Commission provided two volumes of documents (tabs 1 to 22). Dr Kim provided a folder of documents (tabs 1 to 6).

Admissions

11. Dr Kim made several admissions in relation to the factual aspects of the Complaint and also admitted that his conduct amounted to unsatisfactory professional conduct.

Non-publication orders

12. The Chairperson made a non-publication direction and ordered that the name, address and any information, which would identify the patient referred to in the Complaint (Patient A) not be published.

Witnesses

13. The following people gave evidence to the Committee:
 - Dr Samuel Kim, the Respondent
 - Dr Yates, consultant thoracic physician
 - Patient A

ISSUES

14. The issues to be determined by this Committee are:
 - a. Which, if any, of the Particulars of the Complaints are proven to the comfortable satisfaction of the Committee.
 - b. Whether the proven conduct overall amounts to unsatisfactory professional conduct. The Committee can look at all the conduct found proven either separately or cumulatively when making a determination as to whether the conduct amounts to unsatisfactory professional conduct (*Duncan v Medical Disciplinary Committee* [1986] 1 NZLR 513).
 - c. If such a finding is made the Committee must decide whether orders or directions made pursuant to Part 8 Division 3 Sub-division 3 of the National Law are appropriate.

BACKGROUND

Patient A

15. Patient A first consulted Dr Kim in October 2010 for chronic cough. She continued to see him until January 2013. During this time a number of possible diagnoses or explanations for her respiratory symptoms were considered and investigated. These included 'inflammatory bronchitis', various forms of interstitial pneumonitis, including interstitial pneumonitis related to an underlying autoimmune process (such as seronegative Rheumatoid Arthritis). Eventually a diagnosis of 'hypersensitivity pneumonitis' was established by surgical lung biopsy, although no causative agent was identified.
16. During this time Patient A underwent a number of investigative procedures and was prescribed a number of different medications. She also experienced a range of musculoskeletal and gastrointestinal symptoms, including recurrent joint pain, trochanteric bursitis, fatigue, nausea, diarrhoea and general malaise.
17. Patient A was concerned about the changing nature of her diagnosis and the number of medications she was prescribed by Dr Kim, but it was his undisclosed connection with Universal Medicine and referrals to esoteric practitioners connected with Universal Medicine which prompted Patient A to complain to the Commission.

Dr Samuel Kim

18. Dr Kim graduated MBBS from the University of Queensland in 1994. He became a Fellow of the Royal Australasian College of Physicians in 2003. Dr Kim also has a Masters in Public Health from the University of Newcastle (2012).
19. Dr Kim trained in thoracic medicine at the Prince Charles Hospital Brisbane and after becoming a thoracic physician held VMO appointments at a number of hospitals in Queensland.
20. At present Dr Kim is in a private practice in Brisbane and Northern New South Wales as a specialist thoracic physician. He has no public hospital appointments but operates at St Andrews Private Hospital in Brisbane. He is also a senior lecturer in medicine at the University of Queensland.

Which, if any, of the particulars of the complaint are proven to the comfortable satisfaction of the Committee?

Particular 1

In about December 2010 by email, and in or around January 2011 at Ballina Hospital in New South Wales, and at Blue Hills Lung Centre, the practitioner inappropriately recommended to Patient A that she see Ms Jasna Jugovic for esoteric lung massage, in circumstances where on both occasions:

- a. Patient A was consulting the practitioner in his capacity as a thoracic physician concerning her lung conditions;*
- b. the practitioner knew or ought to have been aware that there was insufficient evidence that an esoteric lung massage was effective for Patient A's lung conditions;*

- c. *Ms Jugovic was the practitioner's partner and the recommendation to Patient A was a conflict of interest; and/or*
 - d. *by his conduct above, the practitioner acted contrary to clause 8.11 of the Medical Board of Australia's 'Good Medical Practice: A Code of Conduct for Doctors in Australia' (GMP) and or clause 3 of the NSW Medical Board's Policy on Complementary Health Care (PCH9) (CHC).*
- 21. The Committee heard evidence from Dr Yates. Dr Yates is a consultant thoracic physician and Senior Staff Specialist at St Vincent Hospital in Sydney. As well as her medical qualifications, she has specialist qualifications in thoracic medicine, a Masters degree in Occupational Medicine and a Doctorate in Respiratory Medicine from Cambridge University. She is a Fellow of the Royal College of Physicians of London and a Fellow of the Australasian College of Physicians. She has a particular interest in rare lung disease.
- 22. The Committee considered Dr Yates to be a knowledgeable, thoughtful, considered and impartial witness. Dr Kim did not call a peer or expert witness and Dr Yates' opinion was not challenged by conflicting expert evidence.
- 23. Dr Yates stated that esoteric lung massage is not a known, accepted or effective treatment for thoracic physicians to recommend to their patients. She is not aware of any research trials that have examined this treatment, nor has she attended any meetings or discussions where this was mentioned or recommended for chest discomfort. Dr Yates states that referral for esoteric lung massage is a highly unusual practice and not the standard treatment for any lung disease. Dr Yates considered Dr Kim's conduct, in recommending esoteric lung massage, to be significantly below the relevant standard.
- 24. In her statement dated 20 December 2016, Patient A states that:

"The massage from Jasna involved her stroking my back but no more than that . . . I only had one massage with Jasna as I felt like it did nothing and it cost \$70, which was expensive. I wasn't ever against the idea of massage but this massage was not what I expected. I expected a form of massage to help remove the congestion."
- 25. Dr Kim admitted most of the allegations in Particular 1. His written submissions state:

"Dr Kim has admitted that in December 2010 and January 2011 he recommended that Patient A see Ms Jugovic for a lung massage and that that was an error of judgment because:

 - a. *Patient A consulted him in his capacity as a thoracic physician and his suggestions about complementary therapy would carry greater weight;*
 - b. *esoteric lung massage does not have published scientific data to support its use, which he did not make plain to Patient A;*
 - c. *he should not in any event have recommended that Patient A see Ms Jugovic who was his domestic partner without making the conflict abundantly clear; and*
 - d. *his conduct was contrary to clauses 8.11 of the Medical Board of Australia Code of Conduct Good Medical Practice (GMP)."*

26. Dr Kim does not admit that his conduct was contrary to clause 3 of the NSW Medical Board's Policy on Complementary Health Care (PCH9) (CHC). Clause 3 of that policy states:
- "A doctor who recommends an unproved treatment rather than one with proved effectiveness must have broad professional support in doing so, as well as the patient's fully informed consent; or must be prepared to argue, with evidence, that the treatment is safe and that the patient will not be harmed in any way by withholding conventional therapy."*
27. In his statement dated 1 December 2016 Dr Kim states:
- "I did not recommend esoteric lung massage instead of conventional treatment, but as an adjunct to it....."*
28. Dr Kim's submissions assert:
- "There is simply no evidence that Dr Kim's recommendation about the lung massage was made in preference for a treatment with proven effectiveness or that any conventional evidence based therapy was withheld from Patient A."*
29. The Commission submits that Patient A was not given the opportunity to go to an accredited massage therapist, an accredited physiotherapist, pain clinic or other conventional practitioner instead of the esoteric lung massage. The Commission relies on Dr Kim's comments at a Performance Interview in April 2014 where he explained that the esoteric lung massage is a "special way of massage that will expand the lung". The Performance Interview Report records:
- "He explained "if the energy isn't true, the massage can help balance". He said that you could have physio, but in the case of the complainant her chest wall was too tender to touch, so instead of conventional physio some patients have lung massage."*
30. Dr Kim disputes the accuracy of the Performance Interview Report. He notes that his letter to Patient A's general practitioner, dated 14 January 2011, refers to the need for chest physiotherapy for Patient A.
31. Dr Yates says that at the time of the referral for esoteric lung massage Patient A was suffering from chest pain, joint/hip/rib pain and generalised symptoms of fatigue and malaise and it would have been usual to refer her to a rheumatologist and/or endocrinologist. Consideration should also have been given to referral to a Pain Clinic. She believes that at the time of the referral the avenues for conventional medical treatment had not been exhausted.
32. In his supplementary statement dated 8 February 2017, Dr Kim asserts that he offered Patient A all options of medical management, including specialist referrals, throughout her care. However, he does accept that he should have referred her for review by an endocrinologist earlier and that she would have benefited from timely involvement of the chronic pain services team in Lismore.
33. In his oral evidence Dr Kim also said that the referral for esoteric lung massage was *"really to manage Patient A's anxiety"*. Dr Kim understood Patient A had experienced bereavement and depression and was under considerable stress. However, he did not refer her to a psychologist as he felt *'she wasn't ready for*

that. He said he did not feel it was necessary to send her to a psychologist, as the support he provided to her was *'ample'*.

34. Dr Yates told the Committee that if a patient has difficult psychosocial issues, a respiratory physician would generally refer the patient to a psychiatrist or psychologist. She believes that such referrals allow patients to access accredited and evaluated methods of dealing with stress and anxiety and such referrals often have a beneficial outcome for the patient.
35. In assessing Dr Kim's conduct in light of clause 3 of the CHC policy, it is difficult for the Committee to accept his assertion that he did not withhold any conventional therapy from Patient A and offered esoteric lung massage as an adjunct to conventional therapy. If the esoteric lung massage was *'to manage Patient A's anxiety'*, then the referral must be considered in light of Dr Kim's failure to recommend consultation with a psychologist. If the lung massage was to address ongoing symptoms of chest discomfort, then the referral must be considered in light of Dr Kim's failure to consider referral to a pain clinic.
36. Dr Kim also asserts that he provided Patient A with sufficient information about esoteric lung massage to make an informed decision, however, in relation to Particular 2, he acknowledged that he failed to adequately explain the distinction between conventional evidence based medicine and esoteric lung massage. In his oral evidence he also acknowledged that he didn't provide sufficient information to allow Patient A to decide whether or not she wanted an esoteric treatment.
37. Patient A confirms that she was referred for esoteric lung massage without understanding that this was a treatment for which there was no evidence base. In her statement dated 20 December 2016, Patient A states:

"when Dr Kim told me about Jasna's lung massage I thought it was something akin to physiotherapy, not something alternative. Dr Kim did not give me any 'pros or cons' or even a description of what the esoteric lung massage was about."
38. Dr Yates considers that it was improper for Dr Kim to refer Patient A for esoteric lung massage because there was a possibility of harm. She stated it is possible physical harm could have resulted to a woman with osteoporosis and chest pain. It would appear that Patient A did not suffer actual physical harm, but both Dr Yates and Dr Kim acknowledge that as Patient A paid for the consultation she suffered economic harm.
39. The Committee is satisfied that Dr Kim's conduct was contrary to Clause 3 of the CHC as he recommended esoteric lung massage, an unproven and unaccepted treatment, without broad professional support when other conventional referrals and treatments would have been the usual approach. He did not provide Patient A with enough information to enable informed consent and he acknowledged that she suffered economic harm in having the treatment.
40. The Committee is satisfied, on the basis of Dr Kim's admissions and the available evidence, that Particular 1 is proven.

Particular 2

The practitioner failed to adequately explain to Patient A the distinction between the conventional, evidence-based medical treatment he was offering as a thoracic

physician, and the complementary treatment he recommended at Blue Hills Lung Centre to Patient A including that Patient A consult the following:

- a) Mr Neil Ringe in or around April 2011 for chakra puncture;
- b) Ms Jasna Jugovic for esoteric lung massage in about December 2010 and in or around January 2011;
- c) Mr Michael Serafin for hormone replacement therapy from March and April 2012; and/or
- d) Mr Serge Benhayon, by email on 14 November 2012.

41. Dr Kim admits Particular 2. For example, in his statement dated 1 December 2016, Dr Kim states:

"In my email to Patient A dated 14 November 2012 I said "...I also feel you should see Serge Benhayon one day sooner than later to help you - as your physical medicine is going well otherwise....." At the time that I sent the email to Patient A I thought that I was clear that Mr Benhayon was not offering physical medical treatment. Mr Benhayon offers "spiritual healing" which, to my observation, can be used to complement conventional medicine, much in the same way many people find benefit from meditation or religion when they suffer from chronic illness. In hindsight I accept that I did not make that distinction clear to Patient A.....

I acknowledge that I did not make sufficiently clear to Patient A the distinction between the conventional medicine I was providing as her thoracic physician and the complementary therapies I recommended she pursue with Mr Ringe, Ms Jugovic, Dr Serafin and Mr Benhayon."

42. The Committee is satisfied on the basis of Dr Kim's admissions that Particular 2 is proven.

Particular 3

On or about 21 April 2012, 28 June 2012, and/or 17 August 2012 at Blue Hills Lung Centre, the practitioner inappropriately prescribed or recommended hormone replacement treatment (HRT) for Patient A, in circumstances where:

(a) Patient A consulted the practitioner in his capacity as a thoracic physician concerning her lung conditions;

(b) Patient A's hormone test results were not abnormal before the practitioner prescribed the HRT;

(c) the practitioner failed to adequately discuss the potential side effects of the HRT before prescribing and recommending it to Patient A; and/or

(d) by his conduct above, the practitioner acted contrary to the Medical Council of NSW's Complementary Health Care Policy (September 2011).

43. Patient A had been prescribed HRT in the form of Estraderm patches by her general practitioner to manage symptoms of menopause. She had also been prescribed Ostelin, Vitamin D, Calcium and an Aclasta infusion to deal with her osteopenia.

44. Dr Kim recommended and prescribed a nonconventional form of HRT, bio-identical HRT, to Patient A in 2012. In his statement dated 1 December 2016 he explains:

“I informed Patient A that although her blood levels may be normal, it would be of potential benefit to trial a low-dose thyroid/adrenal supplementation given her chronic steroid dependence and the chronicity of her life threatening disease.”

45. Patient A states that Dr Kim told her that conventional HRT was harmful and he wanted her to have a bio-identical HRT prepared by Michael Serafin, a complementary compounding pharmacist. She said she understood the HRT was prescribed for her menopausal symptoms - hot flushes and heavy sweats. She did not recall being prescribed HRT for osteoporosis.
46. Following Dr Kim’s recommendation Patient A says she attempted to make an appointment with Michael Serafin. When this was not possible, she says Dr Kim contacted Michael Serafin and obtained his advice about the HRT prescription. Dr Kim acknowledged that he left the final decision about the composition of the bio-identical HRT to Michael Serafin, whom he regarded as an expert in this area.
47. Patient A stated the treatment provided by Michael Serafin was not helpful and she returned to Dr Kim who then prescribed conventional HRT in the form of Estraderm patches.
48. Dr Kim admits it was inappropriate for him to prescribe HRT for Patient A. Dr Yates agrees. She says the prescription of DHEA or bio-identical HRT is not a conventional treatment, the evidence base for it is not good, and it is not usual practice for a thoracic physician to prescribe such treatment and to approach a complementary compounding pharmacist to provide it.
49. In his written reply to the Complaint, dated 25 January 2017, Dr Kim states he does not admit that it was inappropriate to recommend HRT to Patient A. His written submissions refer to the risk of osteoporosis for Patient A given her long-term steroid use. However, in his statement, dated 1 December 2016, Dr Kim made the apparently inconsistent statement,

“In retrospect I recognise that my decision to recommend HRT to Patient A is beyond my scope of practice in thoracic medicine, particularly given the potentially high clinical risk involved. I should have insisted on referring her to an endocrinologist for discussion as to whether HRT was an appropriate treatment option for her.”

50. When asked about the apparent contradiction Dr Kim said he had ‘overstepped the mark’. He referred to the risk he faced in compromising his position as a physician, as well as the clinical risk to Patient A.
51. This inconsistency persists in Dr Kim’s written submissions which initially state that Dr Kim does not admit it was inappropriate to recommend HRT but later state, at paragraph 116:

“Dr Kim accepts that in retrospect it was inappropriate for him to refer Patient A to Dr Serafin, inappropriate to recommend the bio-identical HRT (with thyroid and adrenal hormones) and that he ought to have ensured Patient A had appropriate HRT counselling.”

52. In his oral evidence Dr Kim stated that he had not prescribed bioidentical HRT before and what he knew about it came from some academic research but mostly what he knew of the work of Michael Serafin. He conceded that with hindsight he made an error of judgement in recommending bioidentical HRT, instead of conventional HRT, and doing so without a referral to an endocrinologist. He told the Committee he believed bioidentical HRT might help Patient A but could not explain the clinical basis for his recommendation.
53. Dr Yates' opinion is that the decision to recommend HRT was inappropriate. She believes that in relation to the treatment of menopause, osteoporosis or bone loss, referral to a specialist endocrinologist is appropriate. And it would usually be the patient's general practitioner who would prescribe ongoing HRT treatment with regular review by the endocrinologist. Dr Yates also commented that a recommendation for HRT would normally be made by way of writing to the patient's general practitioner suggesting that he or she consider prescribing HRT.
54. Dr Kim also denies Particular 3 (d) - that his conduct was contrary to the Medical Council of NSW's Complementary Health Care Policy (September 2011). That policy states, among other things:
- "A medical practitioner who recommends an unproved investigation or treatment rather than one with proved effectiveness must have broad professional support in doing so, as well as the patient's fully informed consent; or must be prepared to argue, with evidence, that the investigation or treatment is safe and that the patient will not be harmed in any way by withholding conventional medical management."*
55. Despite stating that he informed Patient A of conventional treatment options and provided 'his honest opinion regarding the risks, benefits and efficacy of HRT', Dr Kim acknowledges that he did not give "Patient A sufficient information about HRT to allow her to make informed choices about her treatment". His denial of Particular 3 (d) appears to be based on his assertion that he believed he was acting in Patient A's best interests and the fact that he received no financial benefit from the referral.
56. Dr Yates is strongly critical of Dr Kim recommending and prescribing bioidentical HRT, for which there is no sound evidence base. She is also critical of his failing to refer Patient A to an endocrinologist. The Committee accepts Dr Yates' evidence and is satisfied, on the basis of Dr Kim's admissions and the available evidence, that Particular 3 is proven.

Particular 4

On 17 August 2012 at Blue Hills Lung Centre, the practitioner inappropriately recommended and prescribed vitamin B12 injections for three months to Patient A, in circumstances where:

- a. Patient A consulted the practitioner in his capacity as a thoracic physician concerning her lung conditions;*
- b. Patient A did not have a vitamin B12 deficiency on 17 August 2012 on blood testing; and/or*
- c. by his conduct above, the practitioner acted contrary to the Medical Council of NSW's Complementary Health Care Policy (September 2011).*

57. Dr Kim states that it was safe and appropriate to recommend B12 to Patient A. In his supplementary statement of February 2017, he states:

“By August 2012 Patient A continued to report difficulty in swallowing and exhibited evidence of oral ulcerations along with her slow to improve chest congestion, pleurisy and constitutional malaise. Given the published evidence available at that time of her care, it was my opinion that B12 replacement would support her, specifically in relation to the oral ulceration.”

58. Patient A told the Committee that she recalls Vitamin B12 was prescribed for mouth ulcers and Dr Yates says it was not improper for Dr Kim to prescribe B12 injections if it was for oral ulceration. Dr Kim’s letter to Patient A’s GP dated 17 August 2012 refers to a treatment plan, which states “Consider vitamin B12 injection 1000 mcg monthly for three months with vitamin B group forte with recent aphthous oral ulceration etc.”
59. The Committee finds that Particular 4 is not proven.

Particular 5

In or around April 2011 at Blue Hills Lung Centre, the practitioner as Patient A’s thoracic physician inappropriately recommended chakra puncture, unproved treatment without broad professional support for Patient A.

60. Dr Kim explained that chakra puncture uses needling, but more superficial needling than is used in acupuncture. He said chakra puncture is based on the natural flow of energy as described in the Science of Nadis. Dr Kim believes that it has been in existence for about 16 years, but also has origins in ancient Egyptian times. He stated that chakra puncture is an internationally recognised therapy, although Universal Medicine is the only group which practices and teaches chakra puncture.
61. Dr Kim acknowledges that chakra puncture is an unproven treatment without broad professional support and he admits he inappropriately recommended chakra puncture for Patient A.
62. Dr Kim also told the Committee that he had recommended chakra puncture for persistent chest pain, but without first referring Patient A to a Pain Clinic. He said he didn’t have a strong relationship with the local Pain Clinic and didn’t think Patient A had the kind of pain which was appropriate for referral to a Pain Clinic. Dr Kim said that with hindsight he ‘could have done better’.
63. The Committee finds that Particular 5 is proven.

Particular 6

The practitioner failed to adequately explain his association with the Universal Medicine organisation, and the interconnections between the practitioners which he referred Patient A to between 2010 and 2012, including Mr Neil Ringe, Mr Serge Benhayon, Ms Jasna Jugovic and Mr Michael Serafin.

64. When asked if he was a member of Universal Medicine, Dr Kim said that no one is a member of Universal Medicine. When asked if he was affiliated with Universal Medicine, Dr Kim said that it was not appropriate to refer to affiliation with Universal Medicine.

65. However, Dr Kim explained that since 2005 he has been a student of Universal Medicine and has undertaken a number of Universal Medicine courses. He pays an annual fee to be a member of Universal Medicine's Esoteric Practitioners Association and receives newsletters from, and attends conferences of, the Association. He also reads Universal Medicine literature and the Universal Medicine website. He has written an article which is on the Universal Medicine website and also a letter to the Courier Mail newspaper around September 2012 defending Universal Medicine.
66. Dr Kim leases premises from Universal Medicine and his professional letterhead states that the Blue Hills Lung Clinic is located in the Universal Medicine Clinic. In oral evidence he acknowledged he was an advocate for and supporter of Universal Medicine principles.
67. Dr Kim describes Universal Medicine as a philosophy which goes beyond medicine. Its core attitudes are embodied in the words – *Live, Love, Responsibility*. He said Universal Medicine focuses on Healing with a capital H. This approach does not just look at physical symptoms but goes beyond them to understand the root cause of illness. For example, in his email to Patient A, dated 20 December 2010, he states that "*deep-seated grief is a major driving factor in lung disease*".
68. Dr Kim stated that he first became involved with Universal Medicine in 2005, at the time he met his wife, Jasna, who is a Universal Medicine practitioner. He asserted that while he follows the principles of Universal Medicine in his personal life he does not do so in his professional life.
69. Dr Kim acknowledged that he did not adequately explain his association with Universal Medicine to Patient A. He stated that in fact he told Patient A nothing about his connection to Universal Medicine. Dr Kim was also unable to explain to the Committee why he had not disclosed his relationship with Universal Medicine or the esoteric practitioners connected with it.
70. Dr Kim admits he did not explain any interconnections between himself and Universal Medicine practitioners Mr Neil Ringe, Mr Serge Benhayon and Mr Michael Serafin, but asserts he has no 'interconnections' with these practitioners other than they are all members of Universal Medicine and the Esoteric Practitioners Association. He acknowledged that he has trained in Universal Medicine with Mr Ringe and Mr Serafin and some of his patients have also consulted Mr Ringe, Mr Benhayon and Mr Serafin. Dr Kim admits that he did not disclose his connection to Ms Jugovic to whom he is now married.
71. Dr Yates told the Committee that Dr Kim's professional obligations require him to make full disclosure of his connection to Universal Medicine, so patients can be aware of any potential conflict of interest. Dr Yates noted that Dr Kim has close personal relationships with the Universal Medicine practitioners to whom he referred Patient A. He trained with them, he has social relationships with them; they are his friends. He also rents Universal Medicine premises. She said such relationships do not prohibit a referral, but medical practitioners should be open and transparent about referrals in such circumstances.
72. Further, it is unusual for a thoracic physician to refer a patient for esoteric lung massage and chakra puncture. They are not treatments generally regarded as part of the repertoire of respiratory medicine and they are not recognised by Medicare. In these circumstances full disclosure is essential to allow a patient

to make an informed and appropriate choice. Dr Yates commented that the inherent power imbalance in the doctor-patient relationship reinforces the need for openness. She said that in Dr Kim's situation, displaying a notice in his surgery or providing written information to patients about his Universal Medicine affiliations might help to address this issue.

73. Dr Kim discussed his acceptance of and adherence to the beliefs and values espoused by Universal Medicine. Dr Yates points out that these beliefs are beyond the scope of conventional medicine. When asked whether she considered Universal Medicine to be a form of complementary medicine, akin to acupuncture and herbalism or whether it was more like a religion, Dr Yates stated that she didn't think of it as a religion, but rather as an attitude towards the origins of illness and its treatment. She said it affects an attitude which conventional medicine abandoned in the 19th century and this heightens the need to clearly distinguish for patients the difference between conventional medicine and Universal Medicine. Particularly as it is unclear, given it is a relatively new organisation, how Universal Medicine's training programs are accredited.
74. Dr Kim does not accept that he made actual referrals to Universal Medicine practitioners, as nothing was in writing and he simply said things to Patient A like "*you might consider seeing Serge Benhayon*". Dr Yates stated that suggesting a treatment in a generic sense may not constitute a referral, but when a specific practitioner is mentioned by a specialist physician, given the degree of influence the physician has in relation to the patient, it is reasonable for the patient to regard that as a serious referral or concrete recommendation.
75. In his submissions, Dr Kim has characterised Dr Yates' evidence in relation to Particular 6 as a '*counsel of perfection*', however the Committee accepts her evidence as to the need for doctors to exercise caution and openly disclose personal connections and personal beliefs about unproven medical treatments, when referring patients to other practitioners, especially when the referral is for treatments which are not generally accepted evidence-based treatments.
76. Having regard to Dr Kim's admissions and the available evidence, the Committee is satisfied that Particular 6 is proven.

Does Dr Kim's conduct amount to unsatisfactory professional conduct?

77. With the exception of Particular 4, the Committee has found the Particulars of the Complaint proven.
78. Dr Kim accepts that his conduct is significantly below the standard to be reasonably expected of a practitioner with his level of training or experience. He also accepts that his conduct is improper and unethical. In his statement dated 25 January 2017 he states:

"I admit that I have engaged in unsatisfactory professional conduct under section 139B(1) (a) and section 139B(1) (l) of the Health Practitioner Regulation National Law.

79. The Committee agrees.
80. Dr Kim is a specialist thoracic physician of many years experience. The Committee agrees with the expert opinion of Dr Yates that Dr Kim's conduct

was significantly below the standard reasonably expected of a practitioner with his level of training and experience. He inappropriately recommended and prescribed treatment (bioidentical HRT) for Patient A, when this was outside the scope of his expertise and done without appropriate referral. He recommended other treatments, such as esoteric lung massage and chakra puncture, knowing there was insufficient evidence for their efficacy as treatments for Patient A's lung condition.

81. The Committee notes there is no complaint made about Dr Kim's approach to the conventional medical treatment of Patient A's lung disease.
82. It is also noted that Dr Kim does not practice complementary medicine, however he has trained in the theories and procedures promoted by Universal Medicine and is a member of their Esoteric Practitioners Association.
83. Dr Kim acknowledged that Patient A did not express an interest in or say that she wanted treatment by way of complementary medicine. She consulted Dr Kim purely for conventional medical treatment. However, he referred her to Universal Medicine practitioners, knowing there was no clinical evidence to support the effectiveness of their treatments and without properly explaining the difference between conventional evidence-based medicine and Universal Medicine or indeed his connection with Universal Medicine or its practitioners.
84. The Committee is not critical of Dr Kim's interest or training in Universal Medicine, but is critical of his referrals to Universal Medicine practitioners. It is very unusual for a specialist medical practitioner to refer a patient for non-evidence based treatment, but should this occur, full disclosure and detailed discussion of the treatment is essential. There are difficulties for patients in understanding the boundaries between conventional and complementary medicine and every effort must be made by a medical practitioner to make those boundaries clear and ensure that the patient understands the nature of any treatment that is recommended.
85. This is particularly so in Patient A's circumstances as she had a complex medical condition and understood that Dr Kim was her primary medical practitioner. She said Dr Kim told her that her illness was too complex to be managed by a GP and Dr Kim said he understood how Patient A may have come to that understanding. Dr Kim and Patient A communicated extensively outside face-to-face consultations by email and telephone. Patient A had clearly placed her trust in Dr Kim to deal with her evolving medical needs.
86. The Committee is comfortably satisfied that Dr Kim's conduct, as well as being significantly below the relevant standard, is also improper and unethical conduct.
87. In addition to the matters discussed above, Dr Kim failed to disclose a serious conflict of interest in recommending his fiancée, Ms Jasna Jugovic, as an esoteric lung massage practitioner. He failed to meet his professional obligations in relation to obtaining informed consent, as he did not ensure Patient A had a clear understanding of the kind of treatment he was recommending and the distinction between conventional medicine and Universal Medicine. And his conduct was in breach of the Medical Board of Australia's Good Medical Practice: A Code of Conduct for Doctors in Australia and the NSW Medical Board/Council's Policies on Complementary Health Care.

What orders, if any, pursuant to Part 8 Division 3 Sub-division 3 of the National Law are appropriate?

Dr Kim's practice

88. Dr Kim practices at two locations. His primary practice is at the St Andrews Medical Centre in Brisbane. He is based there from Monday to Friday morning. On Tuesdays and Wednesdays he performs procedures at the St Andrews Private Hospital and he consults with patients at other times. On Fridays he drives to his second practice at the Blue Hills Lung Clinic in Goonellenbah. He may work there between midday and 5 or 6 pm either on a weekly or fortnightly basis.
89. Dr Kim practices as a sole practitioner in both locations. His wife works as his practice manager and on some occasions as his receptionist. Dr Kim is also on-call one in every five weekends. He told the Committee that he is part of a group of six physicians working in 3 different hospitals who have a roster to share their weekend workload. This association provides only a very limited collegiate network.
90. Dr Kim discussed his medical records and his continuing professional development. In relation to this future plans he told the Committee he was considering a number of options. The first was to undertake less clinical work and more academic research. The second was to continue in his current work pattern, although he did not believe this is sustainable in the long term. Thirdly, he has considered leaving medicine and working as a business management consultant. Dr Kim stated that he is 46 years old and will make a decision about his future plans within the next five years.

Changes to his practice

91. Dr Kim told the Committee that since the Complaint was made he no longer initiates HRT treatment. He makes no recommendations nor does he write scripts for HRT. He says he now refers to an endocrinologist.
92. Dr Kim also stated that he generally refers to other specialists more frequently than he did in the past, particularly for patients with complex psychosocial issues. He said there is a full-time psychiatrist at the local hospital with whom he can consult.
93. When asked if he still recommends Universal Medicine practitioners to his patients, Dr Kim said that he does, but since the complaint by Patient A he has been more rigorous and careful in respect to such in referrals.
94. Dr Kim asserted that he has changed his process around obtaining informed consent. He said in the past he had left it to the esoteric practitioner to explain the treatment to the patient. He said now he explains the complementary treatments, assisted by the use of diagrams. Dr Kim provided to the Committee a copy of the *'Esoteric Practitioners Association Initial Consultation and Consent Form'* that he says he keeps in his office and uses to check consent in relation to esoteric treatments.
95. Dr Kim also stated that he has information sheets on Universal Medicine treatments available to patients. He said there was no information sheet concerning esoteric lung massage but there was one on chakra puncture, which he has been using since 2016. Dr Kim was asked to obtain a copy over

the luncheon adjournment to provide to the Committee. He was unable to do so and explained that the information sheet was still in evolution and not yet available. He said that when he referred earlier to using the information sheet since 2016, he had been referring to the Universal Medicine website on chakra puncture.

96. Dr Kim was asked if he now follows an *'open disclosure policy'* when sending patients to Universal Medicine practitioners. He stated that he does not disclose his connection to Universal Medicine when referring patients to esoteric practitioners. He then said, in contradiction to this earlier evidence, that he no longer sends patients to Universal Medicine practitioners.

Insight and Credit

97. The Committee found that Dr Kim's evidence was not always clear or coherent. His oral evidence was at times contradictory and on other occasions, his oral evidence was not consistent with his written statements. When challenged, his responses to these inconsistencies failed to adequately clarify the issue.
98. On some matters Dr Kim strongly asserted his 'innocence', yet at the same time acknowledged aspects of his practice which established the allegation against him. In his submission Dr Kim asserts that his conduct is not unethical, but in an earlier statement he acknowledges that his conduct constitutes unsatisfactory professional conduct under S 139 (I) of the National Law.
99. At times Dr Kim did not appear to be a reliable witness. He stated that he was using an information sheet for patients but when asked to provide a copy conceded that the document was still in production and not yet in use. There were also times where he appeared to prevaricate or respond to questions in a tangential manner. For example, he attempted to minimise his association with Universal Medicine by challenging questions asked about that association.
100. In relation to whether he continues to refer patients to Universal Medicine practitioners, Dr Kim gave contradictory evidence and his final assertion that he no longer makes such referrals was difficult to accept in light of his own evidence about the lengths to which he goes to now ensure patients give informed consent to complementary treatments.
101. In relation to Dr Kim's insight into his professional conduct, it must be acknowledged that he has made significant admissions both in relation to the factual matters alleged in the Particulars and to the complaint of unsatisfactory professional conduct.
102. However, the Committee has concerns about the nature and extent of Dr Kim's understanding of his professional shortcomings.
103. His competence in the practice of conventional respiratory medicine is at odds with an apparent casual acceptance of unproven treatments—even to the extent of accepting, for Patient A, an HRT treatment "*prescribed*" by a non-medically trained pharmacist, without inquiring into the actual nature or composition of that treatment. He was not able to explain the dissonance in his choice of management modalities for Patient A or give any reason for his failure to disclose his connections with Universal Medicine.
104. Dr Kim drew a distinction between his personal beliefs and his professional practice, and strongly denied that Universal Medicine influenced his practice as

a thoracic physician. The Committee considered that he has not fully understood the extent to which his association with Universal Medicine and 'esoteric practitioners' has influenced his practice as a thoracic physician, nor that his bias toward Universal Medicine practices potentially put Patient A at risk.

105. However, at the end of his evidence Dr Kim said he now appreciates that his connection with Universal Medicine does bias his practice in relation to referrals and that this may have been the case with Patient A. Dr Kim's delay in coming to this realisation may explain why, from the making of the complaint until the last day of the Committee's proceedings, he failed to acknowledge the potential harm to Patient A in recommending non-evidence based treatments and Universal Medicine practitioners, in preference to medical specialists and allied health practitioners. He did not express any appreciation of the impact of his actions on a very ill and vulnerable patient. Nor did he express contrition.

106. Dr Kim's submissions state,

"Dr Kim has significant insight into the nature of his errors of judgement. That is apparent from his admissions, his lengthy statement and his earlier correspondence with the HCCC. Dr Kim did not dissemble and made frank admissions about his errors without seeking to shift the blame to other factors."

107. The Committee is unable to accept that submission. Dr Kim said there had been a campaign to discredit Universal Medicine, describing it as a cult, and when he first received the complaint he felt Patient A may have been part of that 'conspiracy'. He said he still considers Patient A may have colluded with the people trying to defame both him and Universal Medicine.

108. When asked about comments, concerning chakra puncture, he is reported to have made at the Performance Interview conducted at the Medical Council in 2014, he asserted the report was 'imprecise' and the interview was 'biased against' him.

109. The Committee has little confidence that Dr Kim has gained genuine insight into his professional conduct, given the nature of his evidence to the Committee and the very recent acknowledgement of his "possible bias".

Conditions

110. The Committee considers that the protection of the health and safety of the public requires a number of conditions to be placed on Dr Kim's registration. Further, the Committee has little confidence that any insight Dr Kim has developed can be sustained and reflected in changes to his practice without such conditions being placed on his registration.

Restrictions on practice

111. The Commission submits that it is appropriate to impose a condition on Dr Kim's registration to prevent him suggesting, recommending or referring patients for complementary therapies or treatment, unless certain explanations and information is given to the patient.

112. Dr Kim submits that such a condition would "be a very difficult condition for any practitioner" and "compliance is unlikely to enhance patient care". He also

expresses concern about ascertaining his exact obligations under such a condition.

113. The Committee accepts that the condition proposed by the Commission is appropriate to address Dr Kim's difficulties in obtaining informed consent. However, the Committee considers further conditions are necessary. Dr Kim's referrals to complementary Universal Medicine practitioners lie at the heart of his unsatisfactory professional conduct. These are the referrals which promoted non evidence-based 'treatments'. It was in relation to these referrals that Dr Kim failed to make appropriate disclosure of personal relationships and failed to adequately explain the difference between conventional medicine and complementary treatments. And the Committee remains concerned that Dr Kim does not adequately recognise his own bias in relation to Universal Medicine practices.
114. Accordingly, in addition to the proposed condition, the Committee considers that on each occasion when Dr Kim wishes to refer a patient for complementary treatment he should first obtain a second opinion in relation to the appropriateness of such a referral. The second opinion should be in writing and from a specialist thoracic physician, approved for this purpose by the Medical Council. If the other thoracic physician endorses the referral, then Dr Kim should discuss with the patient the distinction between conventional and complementary therapies and any personal or professional connection he has with the person to whom the patient is being referred and document those discussions.

Supervision

115. The Commission submits that Dr Kim should practice under category C supervision. Dr Kim submits that supervision is not necessary. He relies on his collegiate network and the references he has provided which attest to his personal and clinical abilities.
116. The Committee considers Dr Kim to be professionally isolated. He works as a solo practitioner and although he has colleagues with whom he shares a weekend workload, he does not at present have access to ongoing peer support and review.
117. Given the Committee's concerns about Dr Kim's understanding of his professional shortcomings, particularly any bias he may have towards Universal Medicine practices, regular supervision is necessary and will provide Dr Kim with opportunities to discuss clinical issues and general professional and ethical matters.
118. The Committee also recommends to Dr Kim that he consider whether professional counselling might assist him to better understand the ethical dilemmas he has faced and develop strategies to cope with ethical/boundary issues in the future.
119. The Committee notes that it may be sensible for Dr Kim's supervisor to also act as the thoracic physician who provides a second opinion in relation to referrals for complementary treatment, as described above. However, if this is not practical, the two roles can be undertaken by different thoracic physicians.

Audit

120. Dr Kim says he has made a number of changes to his practice since the complaint from Patient A. The Commission submits that a medical records audit is appropriate to confirm that those changes have been made and that any improvements to Dr Kim's practice have been maintained.
121. Dr Kim is content to submit to an audit of his practice and the Committee agrees that such an audit is appropriate.

Reprimand

122. The Commission submits that Dr Kim should be reprimanded.
123. Dr Kim's submits that he '*largely made errors of judgement in communication*' and for this reason a caution, rather than a reprimand, is appropriate.
124. The Committee has found and indeed Dr Kim has conceded that his conduct constitutes unsatisfactory professional conduct. His conduct evidenced not merely "*errors of judgement in communication*" but significant ethical errors and failings in respect of proper professional standards. The Committee also notes Dr Kim's lack of contrition and his sometimes disingenuous evidence to the Committee. In light of the nature and seriousness of his conduct, the Committee considers it appropriate to reprimand Dr Kim.

ORDERS AND CONDITIONS

ORDERS

1. Dr Kim is hereby reprimanded.

CONDITIONS

1. The practitioner must nominate, for approval by the Medical Council, a specialist thoracic physician with whom the practitioner is to consult for the purpose of obtaining a second opinion in relation to patient referrals for complementary therapies and treatment.
2. Prior to recommending or referring a patient for complementary therapies or treatment, the practitioner must obtain a written opinion from a specialist thoracic physician who has been approved by the Council. The practitioner must provide a copy of the patient's medical records to the thoracic physician for review and must discuss the patient's diagnosis, current condition, prognosis and the nature and purpose of the proposed complementary therapies or treatment.
 - (a) The practitioner is not to recommend or refer a patient for complementary therapy or treatment unless the approved thoracic physician has endorsed the recommendation or referral. A copy of the opinion from the thoracic physician which supports the recommendation or referral is to be filed in the patient records.
 - (b) at the time of recommending or referring a patient for complementary therapy or treatment, the practitioner must:

- i. explain to the patient the distinction between conventional therapies or treatment and the complementary therapies or treatment being discussed.
- ii. inform the patient of any professional or personal connection the practitioner has with person(s) the patient is being recommended or referred to.

The practitioner is to include a record such discussions in the patient records.

- (c) The practitioner is to maintain a log listing all patients for whom the practitioner has obtained a written second opinion. The log must be signed by the approved thoracic physician and include whether or not the approved thoracic physician endorses the practitioner's recommendation.
 - i. To forward a copy of the log to the Council within 7 days from the end of each quarter.
 - (d) To bear any cost associated with the process of obtaining a second opinion.
3. To practise under Category C Supervision in accordance with the Medical Council of NSW's Compliance Policy - Supervision (as varied from time to time) and as subsequently determined by the appropriate review body.
- (a) The approved supervisor is not to work at the practitioner's place of practice.
 - (b) At each supervision meeting the practitioner is to review and discuss his practice with his approved supervisor with a particular focus on:
 - i. The practitioner's plan and approach for patients who have requested or who the practitioner considers may benefit from complementary therapy or treatment;
 - ii. The practitioner's referral of patients to other specialists or back to their general practitioners for clinical conditions outside his area of practice as a thoracic physician;
 - iii. The practitioner's understanding and implementation in his practice of the Medical Council of NSW's' Complementary Health Care Policy (as varied from time to time).
 - (c) Supervision meetings are to occur on a monthly basis and the supervisor is to report to the Council every three months
 - (d) To authorise the Medical Council of NSW to provide the approved supervisor with:
 - i. a copy of the report of the proceedings that imposed this condition; and
 - ii. a copy of the conditions on the practitioner's registration.
4. To submit to an audit of his medical practice, by a random selection of his medical records by a person or persons nominated by the Medical Council of NSW and:

The audit is to be held within 6 months from [date of decision] and subsequently as required by the Council. The auditor(s) is to assess the practitioner's clinical practice and his compliance with the conditions on his

medical registration, with a particular focus on:

- i. the practitioner's recommendations and referrals of patients to unregistered health practitioners for complementary therapies or treatment;
 - ii. To authorise the auditor(s) to provide the Council with a report on their findings; and
 - iii. to meet all costs associated with the audit(s) and any subsequent reports.
5. Under section 163(1)(a) of the National Law, the Medical Council of New South Wales is the appropriate review body for review of the Practitioner's conditions on his registration.
6. If the Practitioner resides anywhere else in Australia other than New South Wales, sections 125 to 127 inclusive of the National Law are to apply, so that a review of these conditions may be conducted by the Medical Board of Australia.

APPEAL AND REVIEW RIGHTS

125. Dr Samuel Tae-Kyu Kim has the right to appeal this decision to the NSW Civil and Administrative Tribunal.
126. An appeal must be lodged with the Tribunal within 28 days of the date of these written reasons
127. Dr Samuel Tae-Kyu Kim also has the right to seek a review by the Medical Council of NSW of the Committee's order to impose conditions on his registration. Should Dr Samuel Tae-Kyu Kim's principal place of practice be anywhere other than NSW at the time of seeking a review of conditions, Dr Samuel Tae-Kyu Kim may make an application for review to the National Board.

NON-PUBLICATION ORDER

128. The non-publication order made on 23 December 2016 in respect of complainant Patient A continues so that the names, addresses, and any identifying features of that person in this written statement of decision is not to be published.

DISTRIBUTION OF DECISION

129. A copy of this written statement of decision will be provided to Dr Samuel Tae-Kyu Kim, the Commission, the National Board and the complainant.



Diane Robinson
Chairperson
8 May 2017

ANNEXURE A

AMENDED COMPLAINT HEALTH PRACTITIONER REGULATION NATIONAL LAW (NSW)

The **Health Care Complaints Commission** of Level 13, 323 Castlereagh Street, Sydney, NSW, having consulted with the **Medical Council of New South Wales** in accordance with sections 39(2) and 90B(3) of the *Health Care Complaints Act 1993* and section 145A of the *Health Practitioner Regulation National Law (NSW)* (*the National Law*);

HEREBY COMPLAINS THAT

Dr Samuel Tae-Kyu Kim of **287 St Andrew's Place, SPRING HILL QLD 4000**, being a medical practitioner registered under the *National Law* (“the practitioner”),

COMPLAINT

Is guilty of unsatisfactory professional conduct under section 139B(1)(a) and/or s139B(1)(m) of the *National Law* in that the practitioner has:

- (i) engaged in conduct that demonstrates the judgment possessed, or care exercised, by the practitioner in the practice of medicine is significantly below the standard reasonably expected of a practitioner of an equivalent level of training or experience; and/or
- (ii) engaged in improper or unethical conduct relating to the practice or purported practice of medicine.

BACKGROUND TO COMPLAINT

The practitioner was first registered as a medical practitioner in 1994. He has held specialist registration as a thoracic physician since 2004. The practitioner practised

in rooms at Blue Hills Lung Centre (Universal Medicine) in Goonellabah, New South Wales.

The practitioner commenced consulting Patient A on 11 October 2010 for a persistent cough. In July 2011, Patient A was diagnosed by the practitioner with hypersensitivity pneumonitis. Patient A saw the practitioner for this and other thoracic conditions until January 2013.

PARTICULARS OF COMPLAINT

1. In about December 2010 by email and in or around January 2011 at Ballina Hospital in New South Wales and at Blue Hills Lung Centre, the practitioner inappropriately recommended to Patient A that she see Ms Jasna Jugovic for esoteric lung massage, in circumstances where on both occasions:
 - a. Patient A was consulting the practitioner in his capacity as a thoracic physician concerning her lung conditions;
 - b. the practitioner knew or ought to have been aware that there was insufficient evidence that an esoteric lung massage was effective for Patient A's lung conditions;
 - c. Ms Jugovic was the practitioner's partner and the recommendation to Patient A was a conflict of interest; and/or
 - d. by his conduct above, the practitioner acted contrary to clause 8.11 of the Medical Board of Australia's 'Good Medical Practice: A Code of Conduct for Doctors in Australia' (**GMP**) and or clause 3 of the NSW Medical Board's Policy on Complementary Health Care (PCH9) (**CHC**).

2. Contrary to clause 3 of the CHC and/or the Medical Council of NSW's Complementary Health Care Policy (September 2011), the practitioner failed to adequately explain to Patient A the distinction between the conventional, evidence-based medical treatment he was offering as a thoracic physician, and the complementary treatment he recommended at Blue Hills Lung Centre to Patient A including that Patient A consult the following:

- a. Mr Neil Ringe in or around April 2011 for chakra puncture;
 - b. Ms Jasna Jugovic for esoteric lung massage in about December 2010 and in or around January 2011;
 - c. Mr Michael Serafin for hormone replacement therapy from March and April 2012; and/or
 - d. Mr Serge Benhayon, by email on 14 November 2012.
3. On or about 21 April 2012, 28 June 2012, and/or 17 August 2012 at Blue Hills Lung Centre, the practitioner inappropriately prescribed or recommended hormone replacement treatment (**HRT**) for Patient A, in circumstances where:
- a. Patient A consulted the practitioner in his capacity as a thoracic physician concerning her lung conditions;
 - b. Patient A's hormone test results were not abnormal before the practitioner prescribed the HRT;
 - c. the practitioner failed to adequately discuss the potential side effects of the HRT before prescribing and recommending it to Patient A; and/or
 - d. by his conduct above, the practitioner acted contrary to the Medical Council of NSW's Complementary Health Care Policy (September 2011),
4. On 17 August 2012 at Blue Hills Lung Centre, the practitioner inappropriately recommended and prescribed vitamin B12 injections for three months to Patient A, in circumstances where:
- a. Patient A consulted the practitioner in his capacity as a thoracic physician concerning her lung conditions;

- b. Patient A did not have a vitamin B12 deficiency on 17 August 2012 on blood testing; and/or
 - c. by his conduct above, the practitioner acted contrary to the Medical Council of NSW's Complementary Health Care Policy (September 2011).
- 5. In or around April 2011 at Blue Hills Lung Centre, the practitioner as Patient A's thoracic physician inappropriately recommended chakra puncture, unproved treatment without broad professional support for Patient A, contrary to clauses 2 and/or 3 of the CHC and/or the Medical Council of NSW's Complementary Health Care Policy (September 2011).
- 6. The practitioner failed to adequately explain his association with the Universal Medicine organization, and the interconnections between the practitioners which he referred Patient A to between 2010 and 2012, including Mr Neil Ringe, Mr Serge Benhayon, Ms Jasna Jugovic and Mr Michael Serafin, contrary to clause 3 of the CHC and/or Medical Council of NSW's Complementary Health Care Policy (September 2011).