
HPCSA vs. Professor Noakes

A bird's eye view

Breckenridge

February 2017

Dr. Zoë Harcombe, Ph.D

Agenda

HPCSA vs The Prof.

- The players & the kick-off
- The complaint & the charge
- The time line
- The doctor/patient relationship
- Was the 'advice' unconventional?
- What's evidence got to do with it?
- An interesting aside
- What happens next?

The players

Respondent, complainant & pro-forma complainant



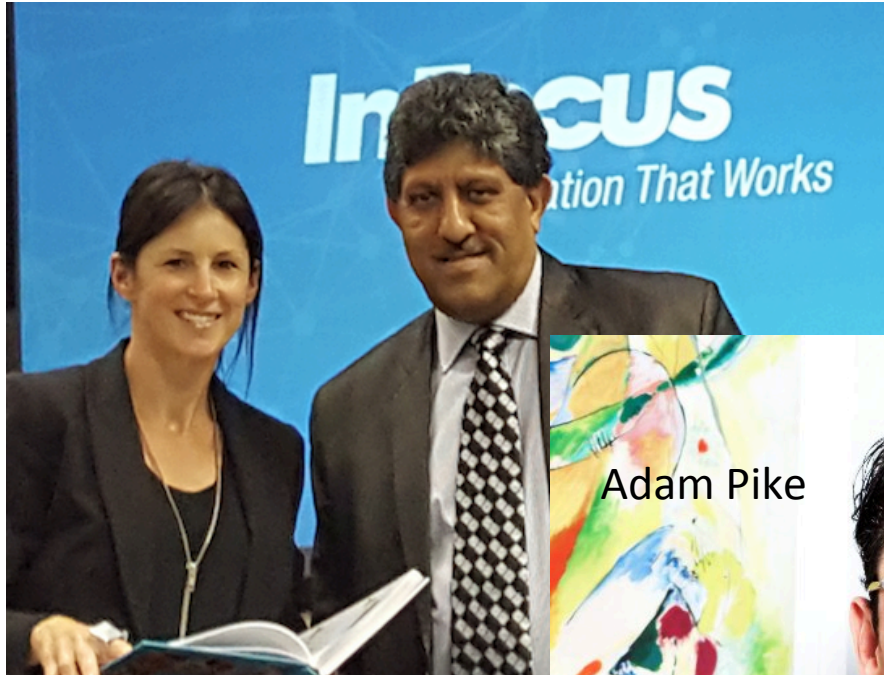
The players

Respondent, complainant & pro-forma complainant



The players

The Prof's legal team



Dr Caryn Zinn &
Advocate Dr Ravin
"Rocky" Ramdass



Adam Pike



Advocate Mike Van
der Nest

The kick-off

It started with a tweet...

- 3 Feb 2014 @pippaleenstra tweeted: “@ProfTimNoakes @SalCreed is LCHF eating OK for breastfeeding mums? Worried about all the dairy + cauliflower = wind for babies??”
- 5 Feb 2014 @proftimnoakes tweeted: “@pippaleenstra @SalCreed Baby doesn’t eat the dairy and cauliflower. Just very healthy high fat breast milk. **Key is to ween baby onto LCHF**”
- 6 Feb 2014 (6.27am) @DietitianClaire tweeted: “@ProfTimNoakes @PippaLeenstra Pippa please contact me on 011 023 8051 or Claire@nutritionalsolutions.co.za for evidence based advice”

The complaint

(8.47am 6 Feb) “To whom it may concern. I would like to file a report against Prof Tim Noakes. He is giving incorrect medical (medical nutrition therapy) on Twitter that is not evidence based. I have attached the Tweet where Prof. Noakes advises (sic) a breastfeeding mother to wean her baby onto a low carbohydrate high fat diet.

*“I urge the HPCSA to please take urgent action against this type of misconduct as Prof Noakes is a “celebrity” in South Africa and the public does not have the knowledge to understand that the information he is advocating is not evidence based – it (sic) especially **dangerous** to give this advice for infants and can potentially be **life-threatening**. I await your response. Kind regards. Claire Julsing Strydom.”*

The charge

“THAT you are guilty of unprofessional conduct, or conduct which, which when regard is had to your profession is unprofessional, in that during February 2014, you acted in a manner that is not in accordance with the norms and standards of your profession in that you provided unconventional advice on breastfeeding babies on social networks (tweet).”

The charge

What the prosecution needs to show

- There is a doctor/patient relationship
- Unconventional advice has been provided
 - Paediatric advice
 - All-population dietary guidelines

The time line

From tweet to charge

- 3 Feb 2014 the tweet; 5 Feb 2014 the reply
- 6 Feb 2014 (8.47am) the complaint
- 20 Feb 2014 The Prof informed about the complaint
- 2 May 2014 The Prof replied
- July 2014 Naude *et al* study published
- Sept 2014 HPCSA made decision to charge The Prof
- 28 Jan 2015 The prof received notice of the charge

3 years have passed...

The time line

The Hearings

- Hearing 1: 4 – 5 June 2015
- Hearing 2: 23 Nov – 2 Dec 2015
- Hearing 3: 8 – 17 February 2016
- Hearing 4: 17 – 26 October 2016

The time line

Hearing 1: (4 – 5 June 2015)

- At least two of the panel members should be registered under the professional board for the Medical and Dental Profession.
- At least one of those two must be registered in the same discipline as The Prof (General Practitioner).
- One panel member was not registered under the Medical and Dental profession (Professor Blaauw) and the other was not of the same discipline.
- Professor Blaauw, was a member of the ADSA – the complainant's organisation.

The time line

Hearing 2: 23 Nov – 2 Dec 2015

- 23 Nov The Prof pleaded not guilty
- Witnesses for the prosecution:
 - The complainant
 - Professor Vorster – Public health nutritionist (SA Dietary Guidelines 2013)
 - Professor Kruger – Public health nutritionist
 - Professor Dhansay – Child nutrition (Stellenbosch)
 - Mr Madube – Legal services to HPCSA

The time line

Hearing 3: 8 – 17 Feb 2016

- Professor Pienaar – ethics
- The Science arrives:
 - The evolution of the human diet
 - The evolution of the diet heart hypothesis
 - Insulin resistance & high carbohydrate diets
 - Obesogenic environment
 - Infant feeding
 - Bradford Hill & the science of causation

The time line

Hearing 4: 17 – 26 Oct 2016

- The science continues (evidence & cross-examine)



The time line

Hearing 4: 17 – 26 Oct 2016

- The science continues (evidence & cross-examine)



The doctor/patient relationship

Good luck with that one!

- The HPCSA defines a patient as *“The relationship between the patient and the Healthcare practitioner is established when the practitioner agrees to treat the patient and the patient agrees to be treated.”*
- The complainant cross-examination:
 - Twitter thread – Leenstra was no more The Prof’s patient than any other responder;
 - If Leenstra were The Prof’s patient then the complainant superceded (stole!) a patient;
 - The complainant held a consultation with Leenstra, if The Prof were a doctor, the complainant even more so.

The doctor/patient relationship

The end of the case

- Failure to establish a doctor/patient relationship effectively dismisses the charge – ethical rules of conduct no longer apply.

Was the advice unconventional?

It wasn't advice, but...

- ...it wasn't unconventional anyway
- Paediatric guidelines (SA 2013 Dietary Guidelines):

“From 6 months of age give your baby meat, chicken, fish, or egg every day as often as possible. Give your baby dark green leafy vegetables and orange coloured vegetables and fruit every day.”

The charge

Cross examination

- The tweet was medical advice.
- You are not qualified to give paediatric advice.
- You should have done a full consultation.
- Twitter is not the right forum for medical advice.
- You were giving dangerous medical advice to an infant.
- “Key is to wean baby onto LCHF”
- Pinned tweet...



What's evidence got to do with it?

The debate has become...

- The Naude *et al* review “we were all waiting for it”
- The debate about unconventional advice, has become a debate about evidence-based advice i.e. if advice is different to that given by public bodies, but it is evidence-based, is it unconventional?
- Conversely, if advice given by public bodies is not evidence-based, should it be seen as unconventional?

Ref: Harcombe & Noakes. Dec 2016. SAMJ. The universities of Stellenbosch/Cape Town
low-carbohydrate diet review: Mistake or mischief?

What's evidence got to do with it?

Evidence vs. convention

- All population dietary guidelines.
- The Prof & The Angels

“The dietary guidelines are without evidence base. Epidemics of obesity and diabetes coincided with the introduction of those dietary guidelines.”

“Was this coincidence?”

An interesting aside

Complainant breached code?

- @DietitianClaire “I AM HORRIFIED!! HOW CAN YOU GIVE ADVICE LIKE THIS????”
- HPCSA rule: *“a practitioner shall not cast reflections on the professional reputation or skill of another person registered under the act.”*
- Complainant: *“maybe I over reacted.”*
- Professor Pienaar (ethics) seemed to accept that the complainant had breached this code.
- Professor Kruger was asked why she didn’t find against the complainant for this.

What happens next?

- Closing arguments: 4 & 5 April 2017
- Panel deliberate: 6 & 7 April 2017
- Verdict is delivered: 21 April 2017
- Verdict was delivered 28 October 2016!

What happens next?



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Media Advisory

Hearing of Professor Tim Noakes

28 October 2016

Professor Tim Noakes, a Professor at the University of Cape Town was found guilty of unprofessional conduct. This is after he provided unconventional advice on breastfeeding babies on social media which was not in accordance with the norms and standards of his profession.

Professor Noakes testified and called all of his witnesses in defence of his case. The witnesses were cross examined by the Pro Forma Complainant. The Pro Forma Complainant has now closed its case and there are no further witnesses to be called. The only outstanding issue is that of argument of the matter.

And finally...

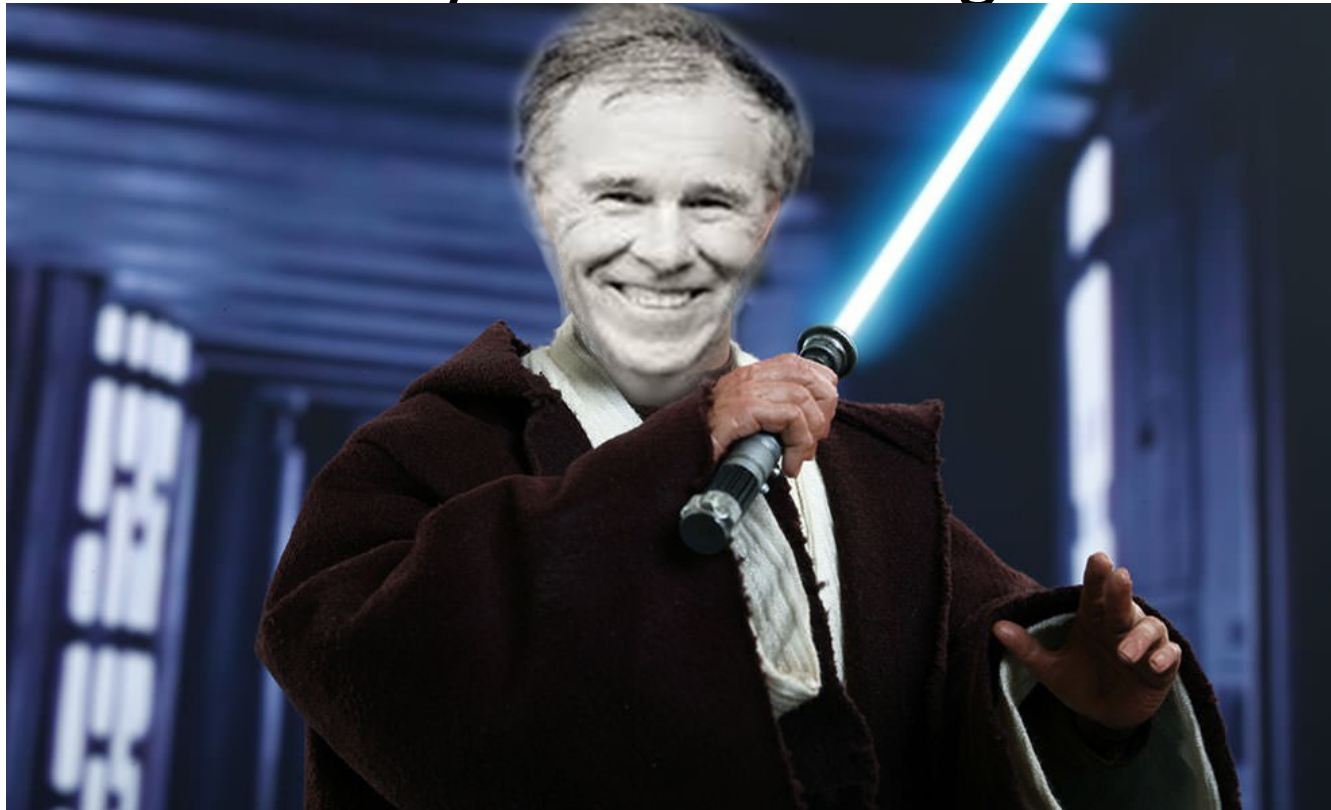
“I look forward to the day when the HPCSA will call for an investigation of the veracity of the ‘evidence base’ on which South African dieticians are currently being trained and its effect on the obesity and diabetes epidemic that is crippling the health of this nation.”

Professor Tim Noakes

(response to complaint 2 May 2014)

The End!

Thank you for listening 😊



May the LCHF Force be with you!
