

## PUBLIC HEARING

### Professional Conduct Committee Review Hearing

17 January 2025

**Name:** ANDRADE, Andre Borges Da Silva

**Registration number:** 174649

**Case number:** CAS-194836-J1T0J8

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**General Dental Council:** Christopher Sykes, Counsel  
Instructed by Rosie Geddes, IHLPS

**Registrant:** Not Present  
Not Represented at the hearing  
Legal Representative: Joanna Flowers, Dental Protection

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**Fitness to practise:** Impaired by reason of misconduct

**Outcome:** Conditions extended (with a review)

**Duration:** 18 Months

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**Committee members:** Edythe Murie (Chair, Lay Member)  
Alison Mayell (Dentist Member)  
Nosheen Kabal (Dental Care Professional Member)

**Legal Adviser:** Alastair McFarlane

**Committee Secretary:** Lola Bird

1. This is a resumed hearing before the Professional Conduct Committee (PCC), pursuant to section 27C of the Dentists Act 1984 (as amended) ('the Act').
2. The hearing is being conducted remotely by Microsoft Teams video-link.
3. The purpose of this hearing has been for the Committee to review a substantive order of conditions, which is currently in place on Mr Andrade's registration. The order was imposed following the conclusion of an initial hearing before the PCC in August 2023.
4. Mr Andrade is neither present nor represented at today's proceedings. The Case Presenter for the General Dental Council (GDC) is Mr Christopher Sykes, Counsel.

#### **Application to proceed with the hearing in the absence of the registrant**

5. At the outset of the hearing, Mr Sykes made an application under Rule 54 of the *GDC (Fitness to Practise) Rules Order of Council 2006* ('the Rules'), to proceed with the hearing notwithstanding Mr Andrade's absence.
6. Mr Sykes drew the Committee's attention to an email dated 16 January 2025, from Mr Andrade's legal representative, Ms Joanna Flowers, in which she confirmed that Mr Andrade would not be attending the hearing today, nor would he be represented in his absence.
7. Mr Sykes also told the Committee that shortly before the commencement of the hearing this morning, he had spoken briefly to Ms Flowers, who explained the reasons for Mr Andrade's non-attendance, which included matters relating to his health. Mr Sykes confirmed that the GDC did not take issue with the reasons provided, and he submitted that it made sense for Mr Andrade and Ms Flowers not to be in attendance, given that parties were in agreement as to the course to be taken at this review.
8. In all the circumstances, Mr Sykes invited the Committee to proceed with the hearing in Mr Andrade's absence.

#### **Decisions on service and proceeding in the absence of the registrant**

9. The Committee took into account that the issues of notice and proceeding in the absence of Mr Andrade were matters for its determination. Following advice from the Legal Adviser, it confirmed that it was satisfied, on the basis of the evidence before it, that Mr Andrade had been notified of this hearing in accordance with the Rules.
10. The Committee was also satisfied that it could proceed in Mr Andrade's absence. The Committee was in no doubt that Mr Andrade and his legal representative were aware of today's proceedings, and it noted that they have been in continued communication with the GDC, including up until this morning. The Committee was satisfied that Mr Andrade had waived his right to attend today and be represented.

11. Accordingly, the Committee determined that it was fair, appropriate and in the public interest to proceed with the hearing in Mr Andrade's absence.

### **Summary of the case background**

12. Mr Andrade's case was first considered by the PCC at a hearing that commenced in January 2023 and concluded in August of that year, having been adjourned part-heard on two occasions. Mr Andrade was present at that hearing and he was legally represented.

13. The allegations that were considered by that initial PCC arose from two separate complaints received by the GDC in relation to the standard of care Mr Andrade provided to a child patient (Patient A) between 2016 and 2020. The first complaint was received by the GDC on 28 February 2020, from Patient A's subsequent treating dentist, a consultant in maxillofacial surgery. The second complaint was received by the Council from Patient A's mother on 18 April 2020.

14. The initial PCC found proved against Mr Andrade a number of the allegations, some of which he admitted. That Committee went on to determine that the facts found proved amounted to misconduct, stating that:

*"The Committee found that the treatment required was outwith your competence. You accepted and undertook a complex case which should have been referred to a specialist orthodontist team in secondary care. The Committee's specific findings relate to wide-ranging failings; inadequate treatment planning; a failure to obtain informed consent; inadequate diagnosis; inadequate preparation for complex treatment; a failure to monitor, record, and diagnose the evolving condition of Patient A; failures in radiography; failures in record-keeping, and not recording the treatment of Patient A over time; and finally failures to communicate with Patient A regarding your expertise or lack thereof".*

15. The initial PCC also determined that Mr Andrade's fitness to practise was impaired by reason of his misconduct, both on the grounds of public protection and in the wider public interest. In its decision on impairment, that Committee stated the following:

*"The Committee has determined that your fitness to practise is currently impaired. The Committee considers that as your acts and omissions relate to specific, basic and fundamental aspects of dentistry they lend themselves to remediation. However, you have not demonstrated sufficient remediation of these matters.*

*The Committee finds that you have demonstrated a good level of insight and remorse. You made admissions to a number of the Heads of charge, and you have made attempts to remediate. However, audits which are referred to in testimonials from colleagues have not been presented to the Committee. You have had time to present these since the findings of facts were handed down in February 2023. The Committee has not been presented with evidence to demonstrate that your recent learning has been embedded in your practice.*

*The Committee finds that the steps that you have taken to remedy your clinical failings are lacking. The Committee notes that your recent CPD concerns areas such as radiography but is not targeted towards orthodontic treatment. The Committee is concerned that a limited amount of CPD has been undertaken in respect of orthodontics since you were provided with an advance copy of the Committee's findings of fact, despite those findings clearly identifying*

*the Committee's specific concerns. There is no evidence that you have undertaken formal training in orthodontics, and the Committee is not confident that your knowledge base in this field of dentistry has significantly increased. Nevertheless you continue to practice primarily in orthodontics. The Committee considers that the process of remedying the deficiencies that it has identified is not complete, and that you continue to pose a risk to patients. Accordingly, the Committee finds that your fitness to practise is currently impaired".*

16. In August 2023, the initial PCC determined to impose a substantive conditions of practice order on Mr Andrade's registration for a period of 18 months. It directed a review of Mr Andrade's case shortly before the end of the 18-month period.

17. One of the conditions imposed by the initial PCC, which required the close supervision of Mr Andrade's clinical practice, was successfully appealed by agreement of both parties. That particular condition was then varied to only require the close supervision of Mr Andrade's orthodontic practice, as opposed to his clinical practice as a whole.

### **Today's review**

18. In comprehensively reviewing the conditions of practice order today, the Committee considered all the evidence presented. It took account of the submissions made by Mr Sykes on behalf of the GDC and the emails dated 14 and 16 January 2025 provided by Ms Flowers on behalf of Mr Andrade. The Committee accepted the advice of the Legal Adviser.

19. By way of an update since the initial PCC hearing, Mr Sykes acknowledged that Mr Andrade had taken some steps in compliance with his conditions, including engaging a Development Advisor in November 2023 and creating a Personal Development Plan (PDP).

20. However, Mr Sykes submitted that Mr Andrade's PDP covers areas of core dentistry and is not targeted to his orthodontic practice, which is a concern for the GDC given the nature of this case. Further, Mr Sykes submitted that the operation of the conditions imposed on Mr Andrade's registration by the initial PCC has been limited. This is because Mr Andrade has not been practising in the UK, and for reasons related to his health. The Committee had regard to the relevant evidence provided.

21. It was Mr Sykes' submission that Mr Andrade's fitness to practice remains impaired. Mr Sykes submitted that, in view of the limited evidence of any improvement in Mr Andrade's orthodontic practice, the current conditions of practice order should be extended by a period of 18 months.

22. In her email dated 16 January 2025, Ms Flowers acknowledged the GDC's proposal for the existing conditions of practice order to be extended. She submitted that "*We agree that this is a sensible approach in Mr Andrade's circumstances*".

### **Decision on current impairment**

23. The Committee considered whether Mr Andrade's fitness to practise remains impaired by reason of his misconduct. In doing so, it exercised its independent judgement. It had regard to the over-arching objective of the GDC, which is: the protection, promotion and maintenance of the health, safety and well-being of the public; the promotion and maintenance of public confidence in

the dental profession; and the promotion and maintenance of proper professional standards and conduct for the members of the dental profession.

24. The Committee took into account that the findings made against Mr Andrade by the initial PCC were serious. That Committee identified significant concerns in relation to the standard of care he provided to Patient A, which centred around his orthodontic practice.

25. This Committee considered that Mr Andrade has demonstrated insight into his failings, and it noted that initially, he made good progress in complying with his conditional registration by engaging a Development Advisor and working on his PDP. The Committee also took into account Mr Andrade's continued engagement with the fitness to practise process. However, Mr Andrade has not been in practice in the UK, and so that initial progress has ceased. The Committee also noted that there have been personal factors beyond Mr Andrade's control, which have contributed to the lack of development. In the circumstances, there is a lack of evidence before the Committee today to show that Mr Andrade has undertaken sufficient remediation and that his learning has been embedded into his orthodontic practice.

26. The Committee therefore concluded that a finding of impairment remains necessary for the protection of the public and in the wider public interest. The Committee noted Mr Andrade's own recognition through his legal representative that he is not currently fit to practise without restriction.

27. Accordingly, the Committee determined that Mr Andrade's fitness to practise remains impaired.

### **Decision on sanction**

28. The Committee next considered what action to take in respect of Mr Andrade's registration. It had regard to section 27C(2) of the Act, which sets out the options available to it at this review.

29. The Committee also had regard to the '*Guidance for the Practice Committees including Indicative Sanctions Guidance (effective from October 2016; last revised December 2020)*'. It noted that the purpose of any sanction is not to be punitive, although it may have that effect, but to protect the public and the wider public interest. The Committee applied the principle of proportionality, balancing the public interest with Mr Andrade's own interests.

30. The Committee considered that some action in respect of Mr Andrade's registration remains necessary, given the limited evidence of improvement in the areas of concern. The Committee decided that it would be inappropriate to terminate the current conditions of practice order and take no further action or to allow the order to lapse, as this would pose a risk to the public and the wider public interest.

31. The Committee considered whether a further period of conditional registration would be appropriate and proportionate in this case. In reaching its decision, the Committee had regard to the conditions currently in place on Mr Andrade's registration. The Committee was satisfied that the conditions remain workable, and that they are adequately targeted to this identified deficiencies in Mr Andrade's clinical practice. The Committee was satisfied that the current conditions continue to be sufficient to protect the public, to maintain public confidence in the dental profession and to uphold professional standards.

32. The Committee therefore decided that no variation to the current conditions was required, nor was there a need to increase the sanction at this review. The Committee concluded that a suspension order would be disproportionate, given that Mr Andrade has demonstrated insight and has sought to comply with the conditions on his registration as far as he has been able. The Committee noted that Mr Andrade has been impacted by some matters that have been beyond his control.

33. In all the circumstances, the Committee determined to extend the current conditions of practice order, unvaried, by period of 18 months. The Committee was satisfied that an 18-month period was appropriate and proportionate, given the serious nature of the original concerns, which have not yet been addressed due to insufficient progress.

34. Accordingly, the conditions will continue to appear against Mr Andrade's name in the Dentists Register as follows:

1. He must notify the GDC promptly of any post he accepts for which GDC registration is required and the Commissioning Body on whose Dental Performers List he is included.
2. If employed, he must provide contact details of his employer(s) and allow the GDC to exchange information with his employer(s) or any contracting body for which he provides dental services.
3. He must provide the contact details of any practices of which he is an owner or part owner and allow the GDC to exchange information with the practice manager.
4. He must inform the GDC of any formal disciplinary proceedings taken against him, within 7 days from the date of this determination.
5. He must inform the GDC if he applies for dental employment outside the UK within 7 days from the date of application.
6. He must inform the GDC within 7 days of any complaints made against him, from the date of this determination.
7. He must work with a Development Advisor (or a nominated deputy) approved by the GDC, to formulate a Personal Development Plan, specifically designed to address the deficiencies in the following areas of his practice:
  - Radiographic practice in orthodontic treatment.
  - Assessment and diagnosis of presenting orthodontic conditions.
  - Malocclusion and its aetiological factors.
  - Risks in orthodontic treatment.
  - Soft tissue and facial factors.
  - Skeletal factors.
  - Risks of impacted teeth on orthodontic treatment.
  - Selection of cases suitable for his level of competence.



8. He must forward a copy of his Personal Development Plan to the GDC within 3 months of the date on which these conditions become effective.

9. He must meet with the Development Advisor (or a nominated deputy), on a regular basis to discuss his progress towards achieving the aims set out in his Personal Development Plan. The frequency of his meetings is to be set by the Development Advisor (or a nominated deputy).

10. He must allow the GDC to exchange information about the standard of his professional performance and his progress towards achieving the aims set out in his Personal Development Plan with the Development Advisor (or a nominated deputy), and any other person involved in his retraining and supervision.

11. He must provide the GDC with three-monthly audits to demonstrate compliance with current laws, relations, standards and policies in force, in relation to:

- a) Informed consent
- b) Orthodontic record keeping
- c) Radiography monitoring of orthodontics cases

12. At any time he is providing dental services, which require him to be registered with the GDC, he must agree to the appointment of a reporter nominated by the Development Advisor and approved by the GDC. The reporter shall be a GDC registrant.

13. He must allow the reporter to provide reports to the GDC at intervals of not more than three months and the GDC will make these reports available to any Development Advisor or workplace supervisor referred to in these conditions.

14. At any time he provides orthodontic treatment or services, he must place himself and remain under the close supervision\* of a workplace supervisor with a post graduate qualification in orthodontics, nominated by the Development Advisor, and agreed by the GDC.

15. He must allow his workplace supervisor to provide reports to the GDC at intervals of not more than 3 months and the GDC will make these reports available to any Development Advisor or Reporter referred to in these conditions.

16. He must notify the GDC promptly of any professional appointment he accepts and provide the contact details of his employer or any organisation for which he is contracted to provide dental services *[and the Commissioning Body on whose Dental Performers List he is included or Local Health Board if in Wales, Scotland or Northern Ireland]*.

17. He must allow the GDC to exchange information with his employer or any organisation for which he is contracted to provide dental services, and any reporter, workplace supervisor or Development Advisor referred to in these conditions.

18. He must inform within 1 week the following parties that his registration is subject to the conditions, listed at (1) to (17), above:

- a) Any organisation or person employing or contracting with him to undertake dental work,





- b) Any locum agency or out-of-hours service he is registered with or applies to be registered with (at the time of application),
- c) Any prospective employer (at the time of application),
- d) The Commissioning Body in whose Dental Performers List he is included, or seeking inclusion (at the time of application),
- e) All staff at his place of work.

19. He must permit the GDC to disclose the above conditions, (1) to (18), to any person requesting information about his registration status.

*\* The registrant's day to day work must be supervised by a person who is registered with the GDC in their category of the register or above and who must be on site and available at all times. As a minimum, the registrant's work must be reviewed at least twice a week by the supervisor via one to one meetings and case-based discussion. These bi-weekly meetings must be focussed on all areas of concern identified by the conditions.*

35. A Committee will review Mr Andrade's case at a resumed hearing to be held shortly before the expiry of the 18-month period. That Committee will determine what action to take in relation to Mr Andrade's registration. Mr Andrade will be notified of the date and time of that resumed hearing.

36. Unless Mr Andrade exercises his right of appeal, the current conditions of practice order will be extended by a period of 18 months. Mr Andrade has 28 days, from the date that notice of this direction is deemed to have been served upon him, to appeal this Committee's decision. In the event that he does exercise his right of appeal, the current conditions of practice order will remain in place until the resolution of the appeal.

37. That concludes this determination.