

**HEARING HEARD IN PUBLIC****BURROUGHS, Daryl Nicole****Registration No: 243696****PROFESSIONAL CONDUCT COMMITTEE****APRIL 2023****Outcome: Erased with Immediate Suspension**

BURROUGHS, Daryl Nicole, a dental nurse, NVQ L3 Dental Nursing & VRQ L3 Dental Nursing City & Guilds 2012, was summoned to appear before the Professional Conduct Committee on 11 April 2023 for an inquiry into the following charge:

**Charge (as amended 11 April 2023)**

“That being a registered dental care professional:

1. Between on or around 4 May 2019 and on or around 8 April 2020 you have:
  - a. Offered to provide teeth whitening treatment to members of the public;
  - b. Provided teeth whitening treatment to members of the public.
2. By your conduct at paragraph 1 b) above you worked beyond your scope of practice.
3. On social media you held yourself out as a “qualified laser teeth whitening specialist”.
4. Your conduct at paragraph 3 above was:
  - a. Misleading;
  - b. Dishonest, in that you did not believe the statement to be true.
5. On or around 4 May 2019 you stated in a conversation on social media, “I’ve spoken to them already before I started the course and they said as long as it’s not in the surgery”.
6. The body you were referring to in the conversation particularised at paragraph 5 above was the General Dental Council.
7. Your conduct in relation to allegations 5 and 6 above was:
  - a. Misleading;
  - b. Dishonest, in that you did not believe the statement to be true.
8. On or around 19 April 2020 you advertised a lockdown raffle on your Instagram page for two teeth whitening sessions.
9. Your conduct at paragraph 8 above was:

- a. Misleading;
  - b. Dishonest, in that you knew you would not be able to honour the prize within any reasonable period of time.
10. From 4 March 2020 you failed to cooperate with an investigation conducted by the GDC by not providing the GDC with any or any adequate evidence of indemnity cover.

AND as a result of the matters particularised above your fitness to practise is impaired by reason of misconduct.”

Ms Burroughs was not present and was not represented. On 14 April 2023 the Chairman made statements regarding the preliminary applications and announced the findings of fact to the Counsel for the GDC:

“This is a Professional Conduct Committee hearing. The members of the Committee, as well as the Legal Adviser and the Committee Secretary, conducted the hearing remotely via Microsoft Teams in line with current General Dental Council (GDC) practice. Ms Burroughs was neither present nor represented in this hearing. Mr Micklewright (Counsel) is the Case Presenter for the GDC.

#### **Decision on service of notification of hearing (11 April 2023)**

Mr Micklewright made an application under Rule 54 of the General Dental Council (Fitness to Practise) Rules 2006 (“the Rules”) that the hearing should proceed in Ms Burroughs’ absence. He submitted that the notification of hearing had been served on Ms Burroughs’ in accordance with Rules 13 and 65.

The Committee had before it a copy of the notification of hearing letter dated 9 March 2023 which was sent via Royal Mail Tracked and Signed to Ms Burroughs’ registered address as it appears in the GDC Register. The proof of delivery receipt showed that the item was ‘returned to sender’ on 13 March 2023, however Committee took into account that there is no requirement within the Rules for the GDC to prove delivery of the notice, only that it was sent. It was satisfied that the letter contained all the components necessary such as the date, time, venue (Microsoft Teams) and the requirement of sending the notice 28 days prior to the hearing taking place. It notes in this particular case that the letter was sent on 9 March 2023 which was more than 28 days’ notice. In addition to this, it became apparent to the GDC that there was another address that was being used by Ms Burroughs, albeit it was not her registered address, and the notice letter was sent to this address on 15 March 2023. It was also sent to Ms Burrough via email.

Having accepted the advice of the Legal Adviser, the Committee was satisfied that the notification of hearing had been served in accordance with Rules 13 and 65.

### **Decision on proceeding in Ms Burroughs' absence (11 April 2023)**

Mr Micklewright then made an application under Rule 54 that the hearing should proceed in Ms Burroughs' absence. The Committee bore in mind that its discretion to proceed with a hearing in these circumstances should be exercised with the utmost care and caution. It took account of Mr Micklewright's submissions and it accepted the advice of the Legal Adviser.

The Committee had sight of a telephone attendance note dated 3 April 2023 which sets out the details of a conversation between a GDC Paralegal and Ms Burroughs. The paralegal informed Ms Burroughs that correspondence had been sent to both Ms Burroughs' registered and alternative addresses. She explained that the reason for calling Ms Burroughs was to find out if she wanted to attend the hearing or to make any submissions in relation to it. Ms Burroughs stated that she would not be able to attend the hearing because she would be working. The option of postponement was explained to Ms Burroughs by the Paralegal, however Ms Burroughs stated that she "works every day and would not be able to attend at all". The Paralegal asked Ms Burroughs if she would like further copies of the disclosure to be sent to her, to which Ms Burroughs stated that she would need to set up an email address or to provide her partner's email address for the GDC to send over the documents. Ms Burroughs asked the GDC paralegal to contact her via telephone in the afternoon at 3pm so she could then provide them with an email address. The agreed call, as requested by Ms Burroughs, was made at 3pm, however this went through to answer phone. Subsequent calls were made by the GDC on that same day as well as on the 4 April 2023 and 5 April 2023. However, there was no response. The Committee also noted that a letter was sent to Ms Burroughs by special delivery on 4 April 2023 to her last known address. The letter contained relevant material in this case and was signed for on 5 April 2023. A further letter was sent on 6 April 2023 by the GDC to Ms Burroughs, stating that there was no response from Ms Burroughs and provided details of how to join the hearing. There was no response from Ms Burroughs.

The Committee could see that numerous attempts were made by the GDC to contact Ms Burroughs via post, email and telephone and found all reasonable efforts had been made by the GDC. It considered that Ms Burroughs is aware of these proceedings and has voluntarily waived her right to attend the hearing. There was no request from Ms Burroughs for an adjournment of the hearing. In considering whether to exercise its discretion to proceed in her absence the Committee had regard, amongst other things, to the public interest in the expeditious disposal of this case, the potential inconvenience to the witnesses called to attend this hearing and fairness to Ms Burroughs. The Committee was of the view that an adjournment was unlikely to secure Ms Burroughs' attendance at a future hearing given that she has not fully engaged with these proceedings and it was satisfied there was no good reason to inconvenience witnesses. The Committee also considered that there are serious charges in the case which involve dishonesty.

For all these reasons the Committee determined to proceed with the hearing in Ms Burroughs' absence. In reaching this decision the Committee had full regard to all the principles set out in the case of GMC v Adeogba [2016] EWHC Civ 162 relevant to the exercise of its discretion under Rule 54.

### **Application to amend the charge (11 April 2023)**

Mr Micklewright made an application under Rule 18 of the GDC (Fitness to Practise) Rules Order of Council 2006 (the Rules) to amend a typographical error in relation to the stem of charge 5 by removing the word 'my' and replacing it with 'the' so that it now reads:

*"On or around 4 May 2019 you stated in a conversation on social media, "I've spoken to them already before I started the course and they said as long as it's not in the surgery".*

The Committee accepted the advice of the Legal Adviser. The Committee was satisfied that the amendment would not prejudice or cause any injustice to Ms Burroughs. The Committee considered that it was a minor clarification and therefore it was appropriate and fair for the amendment to be made. The charge was duly amended.

### **The Charge**

The GDC brings proceedings against Ms Burroughs who is a registered dental nurse. This is a case that concerns teeth whitening which Ms Burroughs was allegedly providing to members of the public. Teeth whitening is outside the scope of a dental nurse's practice. A dental nurse is not entitled to carry out tooth whitening nor is it a skill which they are entitled to acquire. Ms Burroughs' services were marketed on social media as providing 'laser teeth whitening' to which the GDC received a number of complaints about. The GDC commenced an investigation and also sought a report from an expert.

### **Evidence**

The Committee heard oral evidence from two GDC factual witnesses, Witness 1 and Witness 2, who both confirmed the accuracy of their written statement and exhibits. It also received witness statements from Witnesses 3, 4 and 5. The Committee received a report dated 13 January 2023 from Mr David Ward, expert witness for the GDC and heard oral evidence from him. The Committee took account of Ms Burroughs' written submissions in respect of the GDC proceedings.

### **FINDINGS OF FACT – 13 April 2023**

The Committee took account of all the oral and documentary evidence presented in this hearing. It considered the submissions made by Mr Micklewright. It drew no adverse inferences from Ms Burroughs' absence. The Committee accepted the advice of the Legal Adviser. In accordance with that advice it considered each charge separately. The burden of proving the facts alleged is on the GDC and the

standard of proof is the civil standard which is on the balance of probabilities. Ms Burroughs is not required to prove anything.

The Committee's findings are as follows:

1.	<p>Between on or around 4 May 2019 and on or around 8 April 2020 you have:</p> <ul style="list-style-type: none"> <li>a. Offered to provide teeth whitening treatment to members of the public.</li> <li>b. Provided teeth whitening treatment to members of the public.</li> </ul> <p><b>Found Proved in its entirety.</b></p> <p>The Committee was provided with evidence of Ms Burroughs' social media material which clearly demonstrates that she was offering teeth whitening treatment to members of the public. There was also marketing material advertised by her to show 'before and after' photographs of the treatment and to encourage other members of the public to come forward and pay for that treatment.</p> <p>The Committee was satisfied that the above marketing material offered to provide treatment to members of the public. It noted the before and after photographs as well as Ms Burroughs' own comments and responses from members of the public in relation to tooth whitening treatment. The Committee was satisfied having regard to this evidence that Ms Burroughs provided teeth whitening treatment to members of the public.</p> <p>The Committee noted Ms Burroughs' correspondence in which she accepted that she was providing self-administered tooth whitening treatment but does not accept that she was providing 'laser tooth whitening treatment'. The Committee heard from the GDC expert, David Ward who opined that the results in the pictures and the length of procedure as advertised by Ms Burroughs is something that can only be obtained in surgery and with directly applied tooth whitening peroxide gels. He also drew the Committee's attention to the photograph of Ms Burroughs' workplace, which included a chair and an accelerating light used in such procedures. Accordingly, the Committee finds this charge proved on the balance of probabilities.</p>
2.	<p>By your conduct at paragraph 1.b) above you worked beyond your scope of practice</p> <p><b>Found Proved</b></p> <p>The Committee had regard to the 'GDC Scope of Practice' document published in September 2013. This document sets out the following:</p> <p><i>"Dental nurses Dental nurses are registered dental professionals who</i></p>

*provide clinical and other support to registrants and patients. As a dental nurse, you can undertake the following if you are trained, competent and indemnified:*

- *prepare and maintain the clinical environment, including the equipment*
- *carry out infection prevention and control procedures to prevent physical, chemical and microbiological contamination in the surgery or laboratory*
- *record dental charting and oral tissue assessment carried out by other registrants*
- *prepare, mix and handle dental bio-materials*
- *provide chairside support to the operator during treatment*
- *keep full, accurate and contemporaneous patient records*
- *prepare equipment, materials and patients for dental radiography*
- *process dental radiographs*
- *monitor, support and reassure patients*
- *give appropriate patient advice*
- *support the patient and their colleagues if there is a medical emergency*
- *make appropriate referrals to other health professionals*

*Additional skills dental nurses could develop include:*

- *further skills in oral health education and oral health promotion*
- *assisting in the treatment of patients who are under conscious sedation*
- *further skills in assisting in the treatment of patients with special needs*
- *further skills in assisting in the treatment of orthodontic patients*
- *intra and extra-oral photography*
- *pouring, casting and trimming study models*
- *shade taking*
- *tracing cephalographs*

*Additional skills carried out on prescription from, or under the direction of, another registrant:*

- *taking radiographs*
- *placing rubber dam*
- *measuring and recording plaque indices*
- *removing sutures after the wound has been checked by a dentist*
- *constructing occlusal registration rims and special trays*
- *repairing the acrylic component of removable appliances*
- *applying topical anaesthetic to the prescription of a dentist*
- *constructing mouthguards and bleaching trays to the prescription of a dentist*
- *constructing vacuum formed retainers to the prescription of a dentist*
- *taking impressions to the prescription of a dentist or a CDT (where appropriate)*

*Dental nurses can apply fluoride varnish either on prescription from a dentist or direct as part of a structured dental health programme. Dental nurses do not diagnose disease or treatment plan. All other skills are reserved to one or more of the other registrant groups.”*

The Committee notes that tooth whitening does not appear in the list above and was satisfied that Ms Burroughs was acting outside her scope of practice. The Committee noted that tooth whitening is identified as a potential skill for other dental care professionals such as dental therapists/hygienists. It also had regard to Mr Ward's evidence in that there are a number of risks and complications which can arise from tooth whitening which require pre-treatment assessments by a qualified dentist.

Accordingly, the Committee finds this charge proved on the balance of



	probabilities.
3.	<p>On social media you held yourself out as a “qualified laser teeth whitening specialist”</p> <p><b>Found Proved</b></p> <p>The Committee had regard to a screenshot taken of a post on Ms Burroughs’ social media in which she provides her contact details and goes on to state: ‘Qualified laser teeth whitening specialist.’ Accordingly, the Committee finds this charge proved on the balance of probabilities.</p>
4.	Your conduct at paragraph 3 above was:
4.a)	<p>Misleading</p> <p><b>Found Proved</b></p> <p>The act carried out by Ms Burroughs is that she held herself out as a ‘qualified laser teeth whitening specialist.’ This is not a recognised title of qualification which is confirmed by Dr Ward in his expert evidence. The Committee was satisfied that this was misleading as Ms Burroughs was clearly giving the wrong impression to members of the public. Accordingly, the Committee finds this charge proved on the balance of probabilities.</p>
4.b)	<p>Dishonest, in that you did not believe the statement to be true.</p> <p><b>Found Proved</b></p> <p>The Committee considered that based on the evidence it would have been known to Ms Burroughs that there was no such status as a ‘qualified laser teeth whitening specialist’ and that she would have known her statement to be untrue. Further, the Committee notes that material provided by a course that Ms Burroughs attended, known as the Hollywood whitening course, does not mention anywhere that it confers that qualification. The Committee was satisfied that ordinary decent people would regard such conduct as dishonest. Therefore, this allegation is found proved. Accordingly, the Committee finds this charge proved on the balance of probabilities.</p>
5.	<p>On or around 4 May 2019 you stated in a conversation on social media, “I’ve spoken to them already before I started the course and they said as long as it’s not in the surgery”.</p> <p><b>Found Proved</b></p> <p>The Committee had regard to a screenshot taken of a Facebook Messenger conversation between Ms Burroughs and Witness 1 in which Ms Burroughs clearly states “I’ve spoken to them already before I started the course and they said as long as it’s not in the surgery”. Accordingly,</p>

	the Committee finds this charge proved on the balance of probabilities.
6.	<p>The body you were referring to in the conversation particularised at paragraph 5 above was the General Dental Council.</p> <p><b>Found Proved</b></p> <p>The Committee could see from the Facebook Messenger conversation between Witness 1 and Ms Burroughs that Witness 1 refers to the GDC and Ms Burroughs' reply is directly to that message. The Committee was satisfied on the balance of probabilities that Ms Burroughs was referring to the GDC.</p>
7.	<p>Your conduct in relation to allegations 5 and 6 above was:</p> <ul style="list-style-type: none"> <li>a. Misleading;</li> <li>b. Dishonest, in that you did not believe the statement to be true.</li> </ul> <p><b>Found Proved in its entirety</b></p> <p>The Committee had regard to all of the evidence and notes that the GDC has no record that the conversation referred to in charge 5 took place. Witness 4 in her witness statement exhibited a copy of the GDC CRM database where all calls are logged as well as other correspondence with registrants. Witness 3 explained that had there been a telephone conversation, it is highly improbable that the GDC would have said it is acceptable for a nurse to carry out tooth whitening if its outside a surgery setting. Witness 3 stated that Ms Burroughs would have been sign posted to correct information as to the correct regulatory position. The Committee accepted this evidence and was satisfied on the balance of probabilities that no such conversation took place, and even if there had been a telephone conversation, Ms Burroughs would not have been told that her actions in carrying out tooth whitening were permitted. It therefore finds that that Ms Burroughs misled Witness 1 in making the statement and that she was dishonest in that she knew the statement was untrue. The Committee was satisfied that ordinary decent people would regard such conduct as dishonest. Therefore, this allegation is found proved on the balance of probabilities.</p>
8.	<p>On or around 19 April 2020 you advertised a lockdown raffle on your Instagram page for two teeth whitening sessions.</p> <p><b>Found Proved</b></p> <p>The Committee had regard to a screenshot taken of an Instagram post relating to Ms Burroughs' account. The post self-evidently advertises a lockdown raffle for two teeth whitening sessions. Accordingly, the Committee finds this charge proved on the balance of probabilities.</p>



9.	<p>Your conduct at paragraph 8 above was:</p> <ul style="list-style-type: none"> <li>a. Misleading;</li> <li>b. Dishonest, in that you knew you would not be able to honour the prize within any reasonable period of time.</li> </ul> <p><b>Found Proved in its entirety</b></p> <p>The evidence in support of this charge was provided by Witness 1 to the GDC on 9 May 2020. Witness 1 stated in her witness statement that an advertisement for a lockdown raffle was posted by Ms Burroughs on her Instagram page on 19 April 2020. The advertisement highlighted that an entrant would have to pay a sum of £10 in order to be entered into the competition to claim their prize.</p> <p>The Committee accepted the evidence from the GDC that Ms Burroughs was at the relevant time subject to an interim order of suspension which had been imposed in relation to the matters now the subject of this hearing. It therefore considered that the prize could not be honoured within a reasonable period of time. Ms Burroughs would have known this and by inviting the payment of money from entrants was misleading and dishonest in that she knew her registration was suspended. The Committee was satisfied that ordinary decent people would regard such conduct as dishonest. Therefore, this allegation is found proved on the balance of probabilities.</p>
10.	<p>From 4 March 2020 you failed to cooperate with an investigation conducted by the GDC by not providing the GDC with any or any adequate evidence of indemnity cover.</p> <p><b>Found Proved</b></p> <p>The Committee had regard to the GDC standards, particularly Standards 9.4 and 9.4.1 which read: <i>“You must co-operate with any relevant formal or informal inquiry and give full and truthful information”</i> and <i>“If you receive a letter from the GDC in connection with concerns about your fitness to practise, you must respond fully within the time specified in the letter. You should also seek advice from your indemnity provider or professional association.”</i> It was satisfied that there was a clear duty upon Ms Burroughs to cooperate with the GDC investigation.</p> <p>The Committee had before it a clear documentary trail from the GDC to Ms Burroughs requesting specific information which included proof of Ms Burroughs’ indemnity certificate. No correspondence was received from Ms Burroughs.</p> <p>The Committee accepted the evidence before it and was satisfied on the balance of probabilities that Ms Burroughs failed to cooperate with the</p>

	GDC in relation to providing proof of her indemnity insurance.
--	--

We move to Stage Two.”

On 14 April 2023 the Chairman announced the determination as follows:

“The Committee took account of the submissions made by Mr Micklewright on behalf of the General Dental Council (GDC). It accepted the advice of the Legal Adviser.

Mr Micklewright referred the Committee to relevant case law and outlined the specific GDC standards which, in his submission, have been breached by Ms Burroughs. He invited the Committee to consider whether the various breaches amount to misconduct.

Mr Micklewright addressed the Committee on the factors that it must consider in respect of current impairment, including Ms Burroughs’ level of insight and any remediation. He also addressed the Committee on the need to have regard to the protection of the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the GDC as a regulatory body. Mr Micklewright submitted that Ms Burroughs’ fitness to practise is currently impaired by reason of misconduct.

Mr Micklewright addressed the Committee on the matter of sanction and submitted that it must have regard to Ms Burroughs’ degree of insight and engagement when determining the workability of any sanction. He invited the Committee to consider whether an order of erasure may be appropriate in this case.

### **Decision on whether the facts found proved amount to misconduct**

The Committee first considered the matter of misconduct in relation to all of the charges found proved.

The Committee took into account that a finding of misconduct in the regulatory context requires a serious falling short of the professional standards expected of a registered dental professional. It had regard to the GDC’s standards, as contained in the publication ‘*GDC Standards for Dental Professionals (30 September 2013)*’. The Committee considered that the following standards are engaged in this case:

**Standard 1.3** Be honest and act with integrity.

**Standard 1.9** Find out about laws and regulations that affect your work and follow them.

**Standard 7.2** You must work within your knowledge, skills, professional competence and abilities.

**Standard 9.4** Co-operate with any relevant formal or informal inquiry and give full and truthful information.

The Committee also had regard to the GDC's *Scope of practice* (2013) document relating to dental nurses.

The Committee considers that Ms Burroughs knowingly worked outside her scope of practice as a dental nurse and put patients at risk of harm. Her training as a dental nurse does not include any training for tooth whitening, and it is not therefore within the scope of practice. The Committee had regard to Mr Ward's expert evidence that it is important that proper dental assessments take place before a patient undergoes teeth whitening, as this is due to certain risks that may exist if a patient has any underlying dental problems. Mr Ward stated that these members of the public therefore have been deprived of the protection that they would otherwise have had. Further, the Committee found during stage one that the type of whitening that was being carried out by Ms Burroughs was not self-administered whitening, as is stated by her in previous representations to the GDC. It accepted Mr Ward's expert evidence that Ms Burroughs undertook teeth whitening which included the use of peroxide gels rather than using non-peroxide and self-administered products. Ms Burroughs claims she was using products administered by the patients themselves. However, the Committee noted that this also would have been outside her scope of practice.

The Committee accepted Mr Ward's expert evidence that Ms Burroughs' actions in working outside the scope of her practice fell far below the standard expected of a registered dental professional. Further, the Committee considered that patients would not be able to claim any compensation to which they may be entitled due to Ms Burroughs not having any adequate indemnity insurance in place for carrying out work that she is not permitted to do.

The Committee also made findings of serious repeated misleading and dishonest conduct in relation to Ms Burroughs:

- Holding herself out as a qualified laser teeth whitening specialist.
- Covering up an issue that was raised by Witness 1 who was challenging Ms Burroughs and stating that the work she was undertaking was unallowed.
- Posting a competition on her social media page to attract potential clients into paying £10 when she knew she had no reasonable prospect of honouring it within a reasonable period of time.

The Committee had no doubt that this would be seen as deplorable conduct by fellow registrants and the public.

Lastly, the Committee considered that maintenance of public confidence in the dental register is essential. The Committee was satisfied that Ms Burroughs had an unequivocal duty to co-operate with the investigation being conducted by the GDC. Over a prolonged period of time she failed to respond meaningfully to communications from her regulatory body and failed to provide information relating to her indemnity insurance. The Committee considered that this conduct frustrated the

GDC investigation into concerns relating to her conduct and undermined the effectiveness of the GDC's role in professional regulation.

The Committee took a serious view of Ms Burroughs' misconduct and concluded that her conduct was a significant departure from the standards expected of a registered dental professional. Accordingly, the Committee determined the facts found proved amount to misconduct.

### **Current Impairment**

The Committee then went on to consider whether Ms Burroughs' fitness to practise is currently impaired by reason of her misconduct. In doing so, the Committee has again exercised its independent judgement.

The Committee first considered the issue of Ms Burroughs' insight. It had regard to her previous written observations to the GDC dated April 2020, in which she considers the complaints against her are *'a malicious act'* towards her and that *'none of the allegations are true'*. She states that she has *'never used peroxide gels'* and explains to her clients what is being used and that *'it is all self-administrated'*. In a further email Ms Burroughs goes on to state that *'it was a very poor error of judgement'* on her part and that she has *'always taken the rules and regulations of the GDC very seriously'*. The Committee considered that Ms Burroughs attempts to shift responsibility for her actions, involving repeated misleading and dishonest conduct. She does not have a real awareness or understanding of the potential risks involved in providing tooth whitening when not qualified or trained to do so. This also includes potential financial harm to any patient seeking to obtain compensation from Ms Burroughs as she did not hold adequate indemnity insurance.

This demonstrated to the Committee that Ms Burroughs has not shown any meaningful insight. Ms Burroughs is a qualified dental nurse who has been qualified for approximately 10 years and should be aware of her own professional responsibilities and limitations.

The Committee was of the view that whilst some of Ms Burroughs' failures are not easily capable of being remedied, it is not however, impossible. However, the Committee has received no information on Ms Burroughs' current circumstances and as a consequence, there was no evidence before the Committee that she has taken any action to remedy her failings. There is nothing from her to indicate that she has been undertaking any targeted remediation to improve her understanding and/or practice since the concerns first arose, and importantly no evidence of insight on her part. There is nothing before the Committee to suggest that she has any understanding of her duty to act within her scope of practice, not to be misleading/dishonest and to co-operate with her regulator in matters of significant importance. Whilst the Committee has not drawn any adverse inference from Ms Burroughs' absence from this hearing, the current factual position is that her lack of engagement is ongoing.

The Committee found that Ms Burroughs' misconduct was such that it placed patients at unwarranted risk of harm. Moreover, Ms Burroughs' conduct has brought the profession into disrepute and breached the fundamental professional tenets of providing appropriate patient care and being honest.

The Committee concluded that in the absence of any evidence of remediation or of full insight Ms Burroughs presents an ongoing risk to patients. Taking these matters as a whole the Committee concluded that the risk of repetition was high, if Ms Burroughs were to continue practising.

Dental professionals occupy a position of privilege and trust in society and must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession. The Committee has borne in mind that its primary function is not only to protect patients but also to take account of the wider public interest, which includes maintaining confidence in the dental profession and the GDC as a regulator and upholding proper standards and behaviour.

Furthermore, members of the public would be concerned by Ms Burroughs' acts, omissions and dishonesty and would expect her regulatory body to declare and uphold the standards expected of all registered practitioners. In the Committee's judgement public confidence in the profession would be significantly undermined were the Committee not to make a finding of current impairment. Having regard to all of this the Committee has concluded that Ms Burroughs' fitness to practise is currently impaired by reason of misconduct.

### **Decision on Sanction**

The Committee next considered what action, if any, to take in relation to Ms Burroughs' registration. The Committee reminded itself that the purpose of a sanction is not to be punitive although it may have that effect. The Committee took into account the GDC's "Guidance for the Practice Committees, including Indicative Sanctions Guidance" (Effective from October 2016; last revised in December 2020). The Committee took account of the principle of proportionality.

In deciding on the appropriate sanction, the Committee first considered the issue of mitigating and aggravating factors. The Committee considered that it was difficult to identify any mitigating factors in this case, and it noted that it did not receive any evidence in this regard from Ms Burroughs. It did take into account that Ms Burroughs has no fitness to practise history before the GDC.

The Committee identified the following aggravating features:

- Risk of harm to a patient or another which also includes financial harm.
- Dishonesty that was repeated and premeditated.
- Potential financial gain either through the tooth whitening treatment or inviting customers to pay £10 to enter the competition.

- Ms Burroughs breached the trust placed in her as a professional by failing to adhere to standards of care which are fundamental to the practice of dental nursing.
- The misconduct was sustained or repeated over a period of time.
- Blatant and wilful disregard for the role of the GDC and systems.
- Attempt to cover up wrongdoing by misleading Witness 1 during their conversation and persistently attempting to minimise the seriousness of their actions.
- No evidence of Ms Burroughs' current lack of insight, remorse and remediation.

Taking all of these factors into account the Committee considered the available sanctions, starting with the least restrictive, as it is required to do. The Committee first considered whether to conclude this case without taking any action in relation to Ms Burroughs' registration. It decided, however, that such a course would be wholly inappropriate, would not serve to protect the public, nor would it satisfy the wider public interest.

The Committee considered whether to issue Ms Burroughs with a reprimand. However, it similarly concluded that a reprimand would be insufficient to protect the public and the wider public interest, and would be disproportionate in all the circumstances. A reprimand is the lowest sanction which can be applied, and it would not impose any restriction on Ms Burroughs' practice. A reprimand is usually considered to be appropriate where there is no identified risk to patients or the public, and the misconduct is at the lower end of the spectrum. This is not such a case.

The Committee next considered whether a conditions of practice order would be appropriate. The Committee considered that it would be difficult to formulate conditions to address the misconduct in this case having particular regard to the attitudinal issues demonstrated by Ms Burroughs. The Committee considered that, working within her scope of practice, honesty and co-operation with the regulator are already required of registered dental professionals. In any event the Committee was of the view that conditions would not be workable as it noted that dishonesty and attitudinal concerns are difficult to remediate. It could have no confidence that Ms Burroughs would comply with conditions, and nor would conditions be appropriate to address the serious misconduct it has found.

The Committee went on to consider whether to suspend Ms Burroughs' registration for a specified period. In doing so, it had regard to the Guidance at paragraph 6.28, which outlines factors to be considered when deciding whether the sanction of suspension would be appropriate. The Committee considered the factors set out in this paragraph, namely whether:



- there is evidence of repetition of the behaviour, in that Ms Burroughs' misconduct was sustained and repeated over the material time.
- patients' interests would be insufficiently protected by a lesser sanction; and
- public confidence in the profession would be insufficiently protected by a lesser sanction.
- there is no evidence of harmful deep-seated personality or professional attitudinal problems (which might make erasure the appropriate order).

The Committee noted that the first three bullet points apply in this case, and concluded that there was evidence of harmful deep-seated personality and professional attitudinal problems.

The Committee considered that whilst the suspension of Ms Burroughs' registration has the potential to provide a measure of protection in terms of any risk to patients, the wider public interest would not be safeguarded. The Committee considered the wider public interest to be fundamental in a case such as this, involving sustained and repeated misconduct, a lack of insight, a blatant disregard for the GDC standards and serious dishonesty. The Committee also considers that Ms Burroughs appears to have a professional attitudinal problem as she has not taken responsibility for her actions. A further, and more serious, example relates to her offering/advertising her tooth whitening services during her interim suspension order which the Committee found to be dishonest, and may call into question Ms Burroughs' adherence to any suspension order. Given the Committee's concerns about the risk of harm posed by Ms Burroughs and given the Committee's duty to promote and maintain public confidence and proper standards in the dental profession, it considered whether the highest sanction of erasure would be a more appropriate and proportionate outcome.

The Committee had regard to paragraph 6.34 of the Guidance which deals with erasure. This paragraph states that, "*Erasure will be appropriate when the behaviour is fundamentally incompatible with being a dental professional: any of the following factors, or a combination of them, may point to such a conclusion:*

- *serious departure(s) from the relevant professional standards;*
- *...;*
- *where a continuing risk of serious harm to patients or other persons is identified;*
- *the abuse of a position of trust...;*
- *...;*
- *Serious dishonesty, particular where persistent or covered up;*
- *a persistent lack of insight into the seriousness of actions or their consequences."*

The Committee noted that the majority of the factors from paragraph 6.34 apply in this case, which, in its view, demonstrates the seriousness of the matters concerning Ms Burroughs. Taking this into account, the Committee was satisfied that her behaviour is conduct that is fundamentally incompatible with continued registration as a dental professional. The Committee considered that there would be a real loss of public confidence in the dental profession, and in the GDC as a regulator, if a lesser sanction than erasure was imposed in this case. The Committee was satisfied that a reasonable and informed member of the public would expect an outcome of erasure.

In all the circumstances, the Committee determined to erase Ms Burroughs' name from the GDC Register.

Unless Ms Burroughs exercises her right of appeal, her name will be erased from the Register, 28 days from the date when notice of this Committee's direction is deemed to have been served upon her.

The Committee now invites submissions from Mr Micklewright, as to whether an immediate order of suspension should be imposed on Ms Burroughs' registration to cover the appeal period, pending this substantive determination taking effect.

---

### **Decision on immediate order**

In reaching its decision on whether to impose an immediate order of suspension on Ms Burroughs' registration, the Committee took account of Mr Micklewright's submission that such an order should be imposed. He submitted that in circumstances where public protection and public interest issues are so fundamentally engaged, an immediate order is necessary on both grounds.

The Committee accepted the advice of the Legal Adviser.

The Committee determined that it is necessary for the protection of the public, and is otherwise in the public interest to impose an immediate order of suspension on Ms Burroughs' registration.

Ms Burroughs has not engaged with the fitness to practise process, and there has been no evidence of her insight into the gravity of her behaviour. In all the circumstances, the Committee has identified a risk of harm to the public, and it is satisfied that an immediate order is necessary for the protection of the public.

The Committee also considered that the imposition of an immediate order is in the wider public interest. It has determined that Ms Burroughs is not fit to remain on the GDC Register. The Committee considered that public confidence in the dental profession and the regulatory process would be seriously undermined in the absence of an order suspending Ms Burroughs' registration immediately. It considered that it

would be inconsistent not to impose an immediate order following its substantive decision of erasure.

The effect of the foregoing determination and this order is that Ms Burroughs' registration will be suspended from the date on which notice is deemed to have been served upon her. Unless she exercises her right of appeal, the substantive direction for erasure, as already announced, will take effect 28 days from the date of deemed service.

Should Ms Burroughs exercise her right of appeal, this immediate order of suspension will remain in place until the resolution of any appeal.

The interim order currently in place on Ms Burroughs' registration in relation to the matters in this case is hereby revoked.

That concludes this determination."