

PUBLIC HEARING**Registration Appeals Committee
(Registration Appeal Hearing)****22 April 2024****Name:** LOMBARDI DA SILVA, Andrea**Case number:** CAS-205808-J6M9D1

General Dental Council: Miss Rebecca Vanstone, Counsel.
Instructed by Amrit Sagoo, IHLAS**Registrant:** Present
Unrepresented

Outcome: Remitted back to the Registrar

Committee members: Edythe Murie (Chair, Lay member)
Hemash Shah (Dentist member)
Laura Owen (Dental Care Professional member)**Legal adviser:** William Hoskins**Professional adviser:** Malcolm Smith**Committee Secretary:** Andrew Keeling

Ms Lombardi Da Silva,

1. This Registration Appeals Committee was convened to consider your appeal against the decision of the Registrar of the General Dental Council (GDC) that you are not currently eligible for registration as a dental therapist in the UK. You attended the hearing, but you were not represented. Miss Rebecca Vanstone, Counsel, appeared on behalf of the GDC. The hearing was held remotely on Microsoft Teams.

Legal Framework

2. The following paragraphs set out the legal provisions that apply to this appeal.

The Dentists Act 1984 (as amended) (“the Act”)

3. Section 36C of the Act sets out the relevant requirements for qualification for registration in the dental care professionals register, as follows:

“36C. - Qualifications for registration

(1) Subject to the provisions of this Act, a person shall be entitled to be registered under a particular title in the dental care professionals register if he satisfies the registrar-

- (a) of matter A, or C, and*
- (b) of matter D.*

(2) Matter A is that the person holds a qualification or qualifications approved by the Council under section 36D(2) in relation to the profession, or class of members of a profession, to which the title applies.

...

(4) Matter C is that the person—

- (a) holds a qualification or qualifications granted by an institution or institutions outside the United Kingdom relevant to the profession complementary to dentistry, or class of members of such a profession, to which the title applies (in this section referred to as “relevant qualifications”); [and]*
- (b) has satisfied the Council that he has the requisite knowledge and skill to practise as a member of the profession or class to which the title applies;*

(4A) Subsection (4)(b) does not apply to a person whose application for registration is made in reliance on a relevant qualification that—

- (a) was granted in a relevant European State, and*
- (b) demonstrates, in the opinion of the Council, a comparable level of knowledge and skill to that demonstrated by a qualification approved (or qualifications together approved) in respect of the same profession or class under section*

36D(2).

(5) For the purpose of establishing whether a person has the requisite knowledge and skill for the purposes of subsection (4)(b), the Council —

(a) shall take into account all that person's relevant qualifications, and all relevant knowledge or experience, wherever acquired, and

(b) may determine that a person must perform to the satisfaction of the Council in any test or assessment specified in the determination.

...

(6) Matter D is -

(a) the person's identity;

(aa) that he has the necessary knowledge of English;

(b) that he is of good character; and

(c) that he is in good health, both physically and mentally.”

Background

4. On 26 October 2021, you submitted an application to the GDC for registration as a dental therapist. Your application was made under Section 36C of the Act. You were seeking to rely on a Bachelor of Dental Surgery degree obtained in Brazil. You were seeking to demonstrate that you were suitable for registration as a dental therapist by satisfying the Registrar of Matter C and Matter D. You have been registered with the GDC as a dental nurse since 17 April 2023.

First Assessment of Application and Decision

5. Three assessors formed a Registration Assessment Panel (“a Panel”) on 7 April 2022.
6. Having considered the application, the Panel did not recommend entry onto the register, as the evidence provided by you did not demonstrate that you possessed the requisite knowledge and skill to be eligible for registration as a dental therapist.
7. The GDC relied on the recommendation of the Panel and wrote to you on 8 April 2022 with the outcome of the assessment. The GDC confirmed that the Panel had identified a number of learning outcomes as not having not been covered as part of your training or professional experience to allow for registration with the GDC.

8. You were also asked to provide a current clinical competency reference dated within the past five years to confirm what clinical duties were undertaken and to provide the clinical activity and patient numbers worked.
9. The letter advised that should you have any new or additional information which would address the deficiencies identified by the Panel, you could submit these documents within one month (20 working days) of the date of the letter.
10. The letter also advised you of your right to appeal the decision.
11. Upon receipt of the outcome letter, you provided a number of additional documents to the GDC in support of your request for a reassessment of your application.
12. Three assessors formed a Panel on 6 July 2022 and conducted an assessment of your updated application.

Second Assessment of Application and Decision

13. The Panel considered the documents provided and again, did not recommend entry onto the register as the evidence provided by you did not demonstrate that you possessed the requisite knowledge and skill to be eligible for registration as a dental therapist.
14. The GDC relied on the Panel's recommendation and wrote to you on 24 October 2022, with the outcome of the assessment.
15. The reasons for the Panel's decision were set out in the letter. The GDC confirmed that the Panel had identified a number of learning outcomes as not having been covered as part of your training or professional experience to allow for registration with the GDC. Within the outcome letter, you were advised of your right to appeal the decision.
16. Upon receipt of the outcome letter, you emailed the GDC on 29 November 2022. You sought clarification from the GDC as to the appeal process and the re-application process. Emails were then exchanged between you and the GDC, in which the GDC explained that appealing the decision would mean the matter would go before an Appeals Committee, whereas applying for a reassessment would mean that any additional documents provided by you would be assessed by an Assessment Panel and compared against the learning outcomes identified as not having been met at the last assessment. In an email dated 12 December 2022, you confirmed that you wished to apply for a reassessment of your application.

Third Assessment of Application and Decision

17. Three assessors formed a Panel on 11 May 2023 and conducted an assessment of your renewed application, including your detailed cover letter summarising how the learning outcomes identified as having not been met previously were now evidenced.
18. The Panel considered the documents provided and again, did not recommend entry onto the register as the evidence provided by you did not demonstrate that you possessed the requisite knowledge and skill to be eligible for registration as a dental therapist.
19. The Registrar relied on the Panel's recommendation and wrote to you on 16 June 2023, with the outcome of the assessment. The reasons for the Panel's decision were set out in the letter. The GDC confirmed that the Panel had identified a number of learning outcomes as not having been covered as part of your training or professional experience to allow for registration with the GDC.
20. It had also been noted by the Panel that your clinical reference referred only to observations and therefore it could not be accepted as a clinical competence reference.
21. The letter advised that should you have any new or additional information which would address the deficiencies identified by the Panel, you could submit these documents within one month (20 working days) of the date of the letter. However, should you be unsuccessful after your application had been re-assessed, you were reminded that you would no longer be able to apply via this route for registration.
22. The letter also advised you of your right to appeal the decision.
23. On 12 July 2023, you emailed the GDC seeking clarification as to what additional documents may be required. However, no further correspondence was exchanged thereafter.

Fourth Assessment of Application and Decision

24. Three assessors formed a Panel on 9 November 2023 and conducted an assessment of your supplemented application. The Panel considered the documents provided and again did not recommend entry onto the register as the evidence you provided did not demonstrate that you possessed the requisite knowledge and skill to be eligible for registration as a dental therapist.
25. The Registrar relied on the Panel's recommendation and wrote to you on 20 November 2023, with the outcome of the assessment. The reasons for the Panel's decision were set out in the letter. The GDC confirmed that the Panel had identified a number of learning outcomes as not having been covered as part of your training or professional experience to allow for registration with the GDC.

26. The learning outcomes identified as not having been met in respect of your dental therapist application were as follows:-

- **DTher 1.2.2** Recognise the importance of and record a comprehensive and contemporaneous patient history. Professional reference dated within past 5 years required to demonstrate current clinical competency.
- **DTher 1.2.3** Recognise the significance of changes in the patient's reported oral health status and take appropriate action. Professional reference dated within past 5 years required to demonstrate current clinical competency.
- **DTher 1.2.4** Recognise abnormalities of the oral cavity and the rest of the patient and raise concerns where appropriate. Professional reference dated within past 5 years required to demonstrate current clinical competency.
- **DTher 1.2.6** Assess patients' levels of anxiety, experience and expectations in respect of dental care. Professional reference dated within past 5 years required to demonstrate current clinical competency.
- **DTher 1.5.2** Obtain valid consent from the patient before starting treatment, explaining all the relevant options and possible costs. Professional reference dated within past 5 years required to demonstrate current clinical competency.
- **DTher 1.7.4** Manage patient anxiety and pain through effective communication, reassurance and relevant behavioural techniques – Professional reference dated within past 5 years required to demonstrate current clinical competency.
- **DTher 1.7.5** Manage patient pain through the appropriate use of analgesia – Professional reference dated within past 5 years required to demonstrate current clinical competency.
- **DTher 1.8.1** Recognise the risks around the clinical environment and manage these in a safe and efficient manner - Rubber Dam application Professional reference dated within past 5 years required to demonstrate current clinical competency.
- **DTher 1.8.3** Recognise and take responsibility for the quality of care provided to the patient - Professional reference dated within past 5 years required to demonstrate current clinical competency.
- **DTher 1.10.2** Provide patients with comprehensive and accurate preventive education and instruction in a manner which encourages self-care and motivation - Professional reference dated within past 5 years required to demonstrate current clinical competency.



- **DTher 1.10.4** Advise on and apply a range of preventive materials and treatment as appropriate - Application of topical fluoride and fissure sealants.
- **DTher 1.10.5** Assess the results of treatment and provide appropriate aftercare and ongoing preventive advice - Professional reference dated within past 5 years required to demonstrate current clinical competency.
- **DTher 1.11.2** Explain and take account of the impact of the patient's periodontal and general health on the overall treatment plan and outcomes - Clinical reference and CPD on British Society of Periodontology and Implant Dentistry (BSP) current classification and management of periodontal diseases.
- **DTher 1.11.3** Undertake non-surgical treatments, under prescription where appropriate, to remove hard and soft deposits and stains using a range of methods – a clinical reference dated within past 5 years for competency in supra and subgingival scaling and root surface debridement and verifiable CPD on the use of a range of hand instruments and ultra-Sonics.
- **DTher 1.12.2** Extract erupted deciduous teeth under local anaesthetic - Professional reference dated within past 5 years required to demonstrate current clinical competency.
- **DTher 1.14.2** Restore teeth using a wide range of treatments and materials appropriate to the patient including permanent and temporary direct restorations, maintaining function and aesthetics - Professional reference dated within past 5 years required to demonstrate current clinical competency.
- **DTher 1.14.3** Provide pulp treatment for deciduous teeth

Your Appeal

27. On 12 December 2023, the GDC received a Notice of Appeal (“NOA”) from you in which you stated that you were appealing the GDC’s decision not to register you as a dental therapist. You provided three main reasons:

- a) The GDC requirement for clinical experience as a dentist in the last five years did not exist when you applied in 2021. Your professional experience was evidenced by way of professional references;
- b) You had actively dedicated yourself to the dental profession, partaking in various courses, CPD activity and self-reflections; and
- c) You are currently away, but upon return would provide the GDC with additional evidence addressing the learning outcomes identified as not having been met.

Appeal Hearing

Submissions

28. Miss Vanstone, on behalf of the Registrar of the GDC, took the Committee through the background to the case. She submitted that the GDC had accepted the recommendation of the Panel and its position is that you were not currently eligible for registration as a dental therapist in the UK. However, the GDC acknowledged that there was further information now before the Committee that had not been available to the Panel and that had not been assessed by the GDC. In particular, she referred the Committee to the professional work reference you have provided from your time working in Brazil between December 2023 and January 2024. She submitted that although the reference was very detailed, it only related to a period of one-month clinical experience and the Committee would need to assess whether it was sufficient evidence to show that you had the requisite knowledge and skill to practise as a Dental Therapist.
29. Miss Vanstone submitted that the burden was on you to satisfy the GDC that you had the necessary knowledge and skill to be registered as a Dental Therapist. Furthermore, that if the Committee were satisfied that you had the requisite knowledge and skill, she invited the Committee to remit the case back to the Registrar to assess whether the criteria in Matter D had also been met.
30. In your submissions to the Committee, you stated that you had worked for 16 years as a general dental practitioner in Brazil and had also specialised in periodontics. During that time, you had treated adults and children, and also patients with special needs. You worked in the public health system and in private healthcare, and undertook a range of treatments from the simple to the more complex. You submitted that you had never been involved in any ethical or legal issues during your time practising in Brazil.
31. You informed the Committee that you stopped practising in Brazil in 2013 and had a career break until 2020 for personal reasons. In 2019, you moved to the UK and wanted to resume your career in dentistry. You recognised the need to be knowledgeable about the GDC Standards and guidelines. In 2021 when you initially made your application, you submitted that there was no requirement then to provide evidence of your clinical experience within the last five years. You have spent the last three years trying to meet the GDC's requirements and went to Brazil between December 2023 and January 2024 to work for a month in an effort to satisfy these requirements. You submitted that you believed that the work reference covering this period identifies that all the outstanding learning outcomes have been addressed. Lastly, you told the Committee that the main reason you chose dentistry as a career was to help people and that you have dedicated yourself to give your best to each patient.

32. Following your submissions, you answered questions from the Professional Adviser and the Committee.

The Committee's Powers

33. A decision by the Registrar not to register a person's name in the dental care professionals register is an appealable registration decision under Section 36J and Schedule 4A of the Act. Paragraph 4(8) of Schedule 4A to the Act provides that the Committee may determine to:

- a) dismiss the Appeal;
- b) allow the appeal and quash the decision appealed against;
- c) substitute for the decision appealed against any other decision which could have been made by the Registrar; or
- d) remit the case to the Registrar to dispose of in accordance with the directions of the Registration Appeals Committee.

The Decision

34. The Committee has carefully considered your appeal. It has taken account of all the documentary evidence and of the submissions made by Miss Vanstone on behalf of the Registrar, and your submissions. It accepted the advice of the Professional Adviser and the Legal Adviser, and had particular regard to the over-arching objective of the GDC which is to protect the health, safety and well-being of the public, and promote and maintain proper professional standards and conduct for members of the professions.

35. When considering your appeal, the Committee bore in mind that the burden was on you to satisfy it that you had the requisite knowledge and skill to be registered as a dental therapist in the UK. The Committee gave careful consideration to the professional work reference dated 11 January 2024 from Dr Feliciana Faria Couto, whom you worked with from 11 December 2023 to 11 January 2024 in Brazil. The Committee noted that this reference was very detailed and showed that you had sought to address the learning outcomes identified by the Panel at its most recent assessment in November 2023. However, the Committee was also mindful that this only covered a month of your clinical practice and that you had last worked as a dentist in 2013.

36. The Committee also considered your oral submissions. It noted from your answers to the questions put to you by the Professional Adviser that there were gaps in your knowledge and that on occasion you struggled to identify specific learning points from the Continuing Professional Development (CPD) courses you had undertaken. The Committee bore in mind that this may have been difficult for you in light of the very large number of CPD courses you had completed, the majority of which were

completed before 2023. The Committee also respected your honesty when answering these questions in that you admitted that there were some areas, for example in respect of cross-infection control and the Ionising Radiation (Medical Exposure) Regulations (IRMER), in which you needed to refresh your knowledge. The Committee noted the efforts you had made in pursuing your application.

37. In conclusion, taking everything into consideration, the Committee was not satisfied that it was clear from the evidence you had provided that you had the necessary knowledge and skill to be registered as a dental therapist in the UK. The Committee, therefore, determined that it should not allow your appeal. However, the Committee was also minded not to dismiss your appeal. It noted from your professional work reference that it appeared that a number of the learning outcomes seemed to have been met during your recent work in Brazil and it commended you for your efforts in arranging this placement. The Committee was also mindful that this reference had not been assessed by the Registrar or the Registration Assessment Panel. Furthermore, the Committee noted your previous 16 years of clinical experience working in Brazil.
38. Therefore, in accordance with paragraph 4(8)(c) of Schedule 4A of the Act, the Committee directs that your case should be remitted back to the Registrar to fully review the new evidence provided by you, in particular the work reference from Dr Feliciano Faria Couto, to determine whether you have the requisite knowledge and skill to be registered as a dental therapist in the UK.
39. That concludes this hearing.