

PUBLIC HEARING

Professional Conduct Committee Review Hearing

22 March 2024

Name: GARCIA MIGUEL, Lorena

Registration number: 285430

Case number: CAS-201899

General Dental Council: Harry McNeilly, IHLPS

Registrant: Not Present
Not represented

Fitness to practise: Impaired by reason of misconduct

Outcome: Suspension extended (with a review)

Duration: 12 months

Committee members: Andrea Hammond (Dental Care Professional) (Chair)
Kamaljit Sandhu (Lay)
Alison Mayell (Dentist)

Legal adviser: Edward Hosking

Committee Secretary: Gareth Llewellyn

1. Neither party is present at this resumed hearing of the Professional Conduct Committee (PCC). The hearing is being conducted remotely using Microsoft Teams in line with the GDC's current practice. The GDC has invited the Committee to conduct the hearing on the papers in the absence of both parties.

Purpose of hearing

2. The purpose of today's hearing is to review a substantive direction of suspension first imposed on Miss Garcia Miguel's registration by the PCC on 6 October 2023. The hearing is being held in accordance with section 36Q of the Dentists Act 1984 (as amended) ('the Act').

Service

3. The Committee first considered whether service has been properly effected in accordance with the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules').
4. The Committee noted that a notice of hearing was sent to Miss Garcia Miguel's registered address on 1 February 2024 using the Royal Mail's Special Delivery service. Copies of the notice were also sent to Miss Garcia Miguel's known email address. The notice set out the date and time of the hearing, as well as confirming the remote nature of the hearing and the powers available to the Committee. The Royal Mail's Track and Trace service records that the Royal Mail received the notice at its local delivery office on 3 February 2024 and that the notice was due to be delivered.
5. The Committee accepted the advice provided by the Legal Adviser. Having regard to the GDC's submissions and the evidence placed before it the Committee was satisfied that service was effected in accordance with the Rules.

Proceeding in absence

6. The Committee then went on to consider whether to exercise its discretion to proceed in the absence of Miss Garcia Miguel in accordance with Rule 54 of the Rules. It was mindful that its discretion to proceed in the absence of a registrant must be exercised with the utmost care and caution. The Committee notes that the GDC has invited the Committee to proceed in Miss Garcia Miguel's absence. The Committee accepted the advice of the Legal Adviser.
7. The Committee determined to proceed in the absence of Miss Garcia Miguel. The Committee considers that the GDC has made every effort to inform Miss Garcia Miguel of this hearing, and that she has voluntarily absented herself. In the Committee's judgment an adjournment, which has not been sought, would not be likely to secure Miss Garcia Miguel's attendance. The Committee was also mindful of the public interest in the expeditious consideration of this matter, particularly in light of the imminent expiry of the extant suspension.

Existing order

8. In October 2023 the PCC held a hearing of inquiry in respect of allegations relating to Miss Garcia Miguel's conduct. Miss Garcia Miguel was not present and was not represented in her absence. The Committee heard, and found proved, that Miss Garcia Miguel had failed to cooperate with a GDC investigation between 4 January 2022 and 9 September 2022, in that she did not provide the GDC with any, or any sufficient, evidence of her indemnity insurance arrangements.
9. The Committee went on to determine that the facts that it had found proved amounted to misconduct, and that Miss Garcia Miguel's fitness to practise was impaired by reason of that

misconduct. In reaching its decision on impairment the Committee noted that Miss Garcia Miguel had provided no evidence of any insight into or remediation of her misconduct. The Committee determined that Miss Garcia Miguel posed a risk to the public, and further that a finding of impairment was also in the public interest. The Committee determined to suspend Miss Garcia Miguel's registration for a period of six months, with a review hearing to take place prior to the expiry of his suspension. The Committee also made recommendations to Miss Garcia Miguel about the evidence that she might wish to provide to that reviewing Committee.

10. It falls to this Committee to review the suspension.

Submissions

11. The GDC submits that Miss Garcia Miguel's fitness to practise remains impaired, and that a further period of suspended registration for 12 months would be appropriate.

Committee's determination

12. The Committee has carefully considered all the information presented to it, including the documentation and written submissions provided by the GDC as referred to above. In its deliberations the Committee has had regard to the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016, updated December 2020). The Committee has accepted the advice of the Legal Adviser.

Impairment

13. The Committee has determined that Miss Garcia Miguel's fitness to practise remains impaired. The Committee is mindful that, in effect, a registrant bears a persuasive burden to demonstrate that their fitness to practise is no longer impaired. The Committee considers that the misconduct that was found by the previous Committee is capable of being remedied. However, the Committee notes that Miss Garcia Miguel has not engaged with these proceedings and has produced no evidence whatsoever of any insight into or remediation of her misconduct. The Committee considers that Miss Garcia Miguel therefore continues to pose a risk to the public, and that her fitness to practise continues to be impaired.
14. The Committee also considers that a further finding of impairment is required to declare and uphold proper professional standards of conduct and behaviour, and to maintain public trust and confidence in the profession and in the regulatory process.

Sanction

15. The Committee next considered whether it would be appropriate to revoke the suspension, or to replace the suspension with a direction of conditional registration.
16. The Committee considered that revoking the suspension would not be sufficient to protect the public and meet the public interest considerations referred to above.
17. The Committee next considered whether it could formulate conditions which would be workable and which would address the ongoing risks. The Committee concluded that conditions cannot be formulated to meet the public protection and public interest considerations, particularly given the absence of any engagement from Miss Garcia Miguel.
18. The Committee then went on to consider whether it would be appropriate to extend the current period of suspension. The Committee concluded that a further period of suspended

registration is the appropriate and proportionate sanction to impose in the particular circumstances of this case. The Committee considers that a further period of 12 months' suspension is required to protect the public and the public interest, and that any lesser period of time would not be enough for Miss Garcia Miguel to develop and demonstrate insight into and remediation of her misconduct, if in fact she is minded to do so.

19. The Committee hereby directs that Miss Garcia Miguel's suspended registration be suspended for a further period of 12 months, with a review hearing to take place prior to the end of that period of suspended registration. This direction will take effect from the date on which the existing period of suspension would otherwise expire, namely on 7 May 2024.
20. Although the Committee in no way wishes to bind or fetter the future reviewing Committee which will review Miss Garcia Miguel's suspension in around 12 months' time, it considers that the future reviewing Committee may be assisted by the following:
 - Evidence of Miss Garcia Miguel's meaningful engagement with the GDC.
 - A written reflective piece from Miss Garcia Miguel on her failure to engage with the GDC, including her understanding of its regulatory functions and the importance of her engagement as a GDC registrant.
 - Evidence of Miss Garcia Miguel's employment and indemnity history.
21. The above recommendations are the same as those proposed by the previous Committee in October 2023.

Right of appeal

22. Miss Garcia Miguel will have 28 days from the date on which notice of this decision is deemed to have been served on her to appeal against this decision. Should she decide to appeal, the existing direction of suspension will remain in force until the resolution of any such appeal. Should she decide not to appeal, the current suspension will take effect on the date on which it would otherwise expire, that is to say on 7 May 2024.
23. That concludes this case for today.