

**PUBLIC DETERMINATION
ON PAPERS****Registration Appeals Committee
CPD Appeal****28 April 2025****Name:** DE BRITO, Wanderlea**Registration number:** 213380**Case number:** CAS-209525-J3H0B5

General Dental Council: Not present. Georgina Mayles of IHLAS.**Registrant:** Not present. Not represented.

Outcome: Appeal dismissed

Committee members:	Helen Wagner	(Chair, Lay member)
	Melissa Oura	(Dentist member)
	Samantha Vowles	(DCP member)

Legal adviser: Kenneth Hamer**Committee Secretary:** Paul Carson

1. Miss De Brito is a registered dental nurse who appeals against the decision of the registrar to erase her name from the DCP register for non-compliance with her Continuing Professional Development (CPD) requirement.
2. The Committee met remotely today using Microsoft Teams and considered the appeal on the papers, as neither party had requested an oral hearing and the Committee considered that it would be desirable to determine the appeal without one. The Hearings Director had served notification of this meeting on the parties with at least 28 days' notice in accordance with Rules 5(2) and 5(3) of the General Dental Council (Registration Appeals) Rules 2006.

Background

3. Miss De Brito first registered with the GDC as a dental nurse on 11 August 2011. Her current CPD cycle runs from 1 August 2022 to 31 July 2027. In accordance with the General Dental Council (Continuing Professional Development) (Dentists and Dental Care Professionals) Rules 2017 (the "Rules"), she is required to complete a minimum of 50 hours of CPD activity over the CPD cycle (Rule 2(1)), with at least 10 hours to be completed during each period of two consecutive CPD years (running 1 August to 31 July) within that cycle (Rule 2(5)(b)). This includes any two-year period which spans more than one CPD cycle.
4. Rule 2(6) of the Rules provides that CPD activity must be verifiable, with documentary evidence from the provider confirming, among other things, the subjects, learning content, aims, objectives and anticipated learning outcomes of the CPD and the date that the CPD was undertaken. Confirmation must also be provided that the CPD activity is subject to prescribed quality assurance measures.
5. In accordance with Rule 3(1) of the Rules, Miss De Brito is required to keep a log of all the CPD that she plans to undertake and has undertaken during the CPD cycle. Rule 4(1) requires her to submit an annual statement of her CPD activity to the registrar within 28 days of the end of each CPD year stating the hours which had been undertaken for that year, with the annual statement submitted in the final year of the CPD cycle also to include the total number of hours which had been undertaken during the cycle (Rule 4(2)).
6. Rules 6 and 7 of the Rules prescribe various notification requirements under which the registrar may require a practitioner to, among other things, submit their CPD record and/or provide evidence of their compliance with the CPD requirement.
7. Rule 8 of the Rules provides that the registrar "*may erase the practitioner's name*" in circumstances where the practitioner has either failed to comply with a notice sent under Rule 6 or 7, or where the registrar is not satisfied from the response provided by the practitioner that they have met the CPD requirement or other related obligations under the Rules.
8. A decision of the registrar to erase under Rule 8 is an appealable decision under paragraph 2(1)(h) of Schedule 4A to the Dentists Act 1984. In accordance with

paragraph 4(5) of that Schedule, erasure shall not take effect until after the disposal of the appeal proceedings.

9. Between 22 May 2024 and 28 August 2024, the GDC sent Miss De Brito various automated reminders by email, post and SMS message relating to the annual renewal of her registration and her annual CPD statement, which she was required to submit by 28 August 2024. Miss De Brito was reminded of the number of CPD hours which she would need to demonstrate in respect of her CPD cycle, including the need to demonstrate at least 10 hours within each consecutive two CPD year period.

10. On 25 September 2024, the GDC wrote to Miss De Brito under Rule 6 of the Rules to state:

'Thank you for submitting your CPD statement this year. However, our records show that you have not declared enough hours to meet the requirement of completing a minimum of 10 hours of CPD over two consecutive years. This puts your registration and ability to practise at risk.

You had previously submitted a 2022-2023 CPD Annual statement of 0 verifiable hours and you have recently submitted a 2023-2024 CPD statement of 0 verifiable hours.'

11. On 7 and 10 October 2024, Miss De Brito contacted the GDC by telephone to discuss the Rule 6 notice.

12. On 14 October 2024, Miss De Brito wrote to the GDC by email to apologise for not sending her CPD certificates. She stated that she had always completed all her CPD hours in the past but various unforeseen circumstances she had to deal with in the last two years had impacted the priority she gave to completing her CPD. She described those circumstances in her correspondence, the details of which do not need to be narrated in the terms of this public determination.

13. There followed communications passing between the GDC and Miss De Brito, in which the GDC invited her to provide her CPD record and along with any evidence of exceptional circumstances she might wish the registrar to consider.

14. On 05 November 2024, the GDC wrote to Miss De Brito under Rule 8 of the Rules to inform her of the registrar's decision *"to remove your name from the dental care professional register for non-compliance with the General Dental Council's CPD requirement."* The letter explained that the reason for this was because:

'...you have failed to provide a compliant CPD record demonstrating that you have met the minimum requirement for the period 1 August 2022 – 31 July 2024. As a result, the Registrar is not satisfied that you have complied with the rules.

Your evidence demonstrates that you have completed 0 hours of verifiable CPD between 1 August 2022 – 31 July 2023 and 5 hours of verifiable CPD between 1 August 2023 - 31 July 2024. This is not enough to meet your CPD requirements to complete a minimum of 10 hours of verifiable CPD for every two consecutive CPD year period.

Your CPD remains deficient because:

- *You have failed to provide sufficient evidence that demonstrates compliance with the CPD requirement of completing 10 hours of verifiable CPD over 2 consecutive years.*

We have considered the evidence provided namely email dated 13 October 2024 and letter received 21 October 2024. We have applied the Guidance on the Registrar's Discretion to erase for CPD Noncompliance.

We have identified the following factors:

- 1. Although, the events you have described were exceptional personal circumstances beyond your control, you did not provide evidence to support these.*
- 2. Notwithstanding your circumstances, you have been able to continue working as a dental professional.*
- 3. There is evidence that the reason you failed to meet the CPD requirements is because you were not aware of them, rather than your circumstances.*
- 4. Your previous positive compliance and professional standing is not relevant.*
- 5. The impact on you of your erasure is not relevant.'*

The appeal

- 15. On 3 December 2024, Miss De Brito lodged a notice of appeal against the registrar's decision. In her notice of appeal, she included some evidence in support of the difficult personal circumstances to which she had previously referred.*
- 16. On 4 December 2024, the GDC assessed the CPD records in response to Miss De Brito's appeal and determined that she was not compliant with her CPD requirement for the following reasons:*

'Reasons the CPD evidence is non-compliant are:

- Miss De Brito has failed to provide sufficient evidence that demonstrates compliance with the CPD requirement of completing 10 hours of verifiable CPD over 2 consecutive years.*
- 3 x Agilio certificates are a duplication of previously accepted.*

As of 4 December 2024, Miss De Brito has completed 5 hours of verifiable CPD, this is not enough to meet the Enhanced CPD requirements to submit 10 hours of CPD over 2 consecutive years for the years 2022-2024.

Miss Wanderlea De Brito must provide a further 5 hours of verifiable CPD evidence for the years 1 August 2022 to 31 July 2024.'

- 17. The registrar's position in response to the appeal, as set out in the GDC Case Summary dated 11 April 2025, is that Miss De Brito is therefore non-compliant with her CPD requirement, that there is no power to waive this and that 'It is open to Miss De*

Brito to apply to restore her registration at any time following this appeal'. The registrar empathises with the difficult personal circumstances which Miss De Brito experienced but does not consider these amount to exceptional circumstances, particularly as she had continued to work during the period in question.

Decision

18. The Committee accepted the advice of the Legal Adviser.
19. The first consideration for the Committee was whether Miss De Brito had complied with her CPD requirement by completing at least 10 hours of CPD within the period 1 August 2022 to 31 July 2024. Having reviewed her CPD record, the Committee determined (as is not in dispute on appeal) that she demonstrates only 5 hours of CPD and that there is therefore a shortfall of 5 hours. Accordingly, the Committee was satisfied that she was not compliant with her CPD requirement.
20. The Committee considered the permissive terms of Rule 8 of the Rules, which confer a discretion on the registrar in relation to erasure: whilst the CPD requirement itself is mandatory, enforcing that requirement by erasing a non-compliant practitioner is a matter of discretion. The question of proportionality therefore arises. In considering this question, the Committee had regard to the GDC's *Guidance on the Registrar's Discretion to Erase for CPD Non-Compliance* (February 2024) (the "Guidance").
21. The Committee recognised that the CPD requirement is a mandatory statutory requirement which applies to all registered dental professionals. Compliance is important in helping to ensure public protection and maintaining wider public confidence in the profession, so as to meet the overarching objective of the GDC under section 1 of the Act.
22. The Committee had careful regard to the difficult personal circumstances to which Miss De Brito refers. She had not provided any evidence in support of these at the time of the registrar's decision but does provide supporting evidence on appeal. The Committee recognises that Miss De Brito had experienced a difficult period in her life and it expresses its sympathy to her. However, the evidence provided in support of her difficult personal circumstances does not go so far as to show that she would have been unable to complete the outstanding 5 hours at some point during the two-year period under consideration. The Committee further noted that Miss De Brito was able to continue working throughout this period. In this regard, the Committee noted paragraph 15 of the Guidance, which states:

'The Registrar should also consider whether the personal circumstances put forward have prevented the registrant from working during the period under consideration. If a registrant has, notwithstanding their circumstances, been able to continue working as a dental professional, the Registrar is highly unlikely to exercise their discretion not to erase for a failure to meet their CPD requirements during the same timeframe.'
23. In the Committee's judgement, the fact that Miss De Brito was able to continue working notwithstanding her difficult personal circumstances means that she would still have had sufficient opportunity to complete her CPD hours, in respect of which numerous reminders were sent to her by the GDC.

24. The Committee was satisfied that the registrar's decision to erase was consistent with the Guidance and is in any event proportionate in all the circumstances. Miss De Brito was in significant breach of the requirement to complete 10 hours of CPD within the two-year period, which is a mandatory statutory obligation. The breach was neither marginal nor technical, albeit there are strong human factors for her non-compliance.
25. Whilst the Committee is sympathetic to Miss De Brito, as her non-compliance appears to be the result of personal difficulties rather than a deliberate disregard for CPD and its importance, there are no grounds on which this appeal could be allowed. Miss De Brito had failed to demonstrate that she was compliant with her CPD requirement and her difficult personal circumstances did not prevent her from continuing to work as a dental nurse. The decision of the registrar to erase her name was proportionate and was reached correctly in accordance with the procedural requirements of the Rule.
26. Regrettably, this appeal must therefore fail and is dismissed. Unless Miss De Brito exercises her right of appeal to the court, the erasure decision will take effect upon the expiry of the 28-day appeal period. It will then be open to her to apply for the restoration of her registration if she meets the CPD and other requirements for restoration.
27. That concludes this determination.