

ON PAPERS

PART-PRIVATE HEARING

Health Committee Review Hearing

5 November 2024

Name: KALHOR SADIGHI, Kristian Reza

Registration number: 71619

Case number: CAS-190762-L6T1Y0

General Dental Council: Represented by Carla Marie Clough, IHLPS

Registrant: Not represented

Fitness to practise: Impaired by reason of misconduct and health

Outcome: Suspended indefinitely

Duration: N/A

Immediate order: N/A

Committee members: Jacqueline Hart (Chair, Dental Care Professional Member)
Duncan Smith (Dentist Member)
Fiona Abbott (Lay Member)

Legal Adviser: Richard Ferry-Swainson

Committee Secretary: Lola Bird

At this hearing the Committee made a determination that includes some private information. That information has been omitted from this public version of the determination, and this public document has been marked to show where private material has been removed.

1. This is a resumed hearing before the Health Committee pursuant to section 27C of the *Dentists Act 1984 (as amended)* ('the Act').
2. The purpose of this hearing has been for the Committee to review a substantive order of suspension that is currently in place on Mr Kalhor Sadighi's registration.
3. Neither party is present at today's proceedings following a request made by the General Dental Council (GDC) for the review to be conducted on the basis of the papers alone. The Committee received written submissions from the GDC dated 1 November 2024, as well as an indexed 'Health Committee Review Bundle' of 201 pages ('the hearing bundle').

Service and proceeding

4. The Committee first considered the issues of service and proceeding in the absence of Mr Kalhor Sadighi and any representatives for either party. It accepted the advice of the Legal Adviser on these matters.

Decision on service

5. The Committee considered whether notice of the hearing had been served on Mr Kalhor Sadighi in accordance with Rules 28 and 65 of the *GDC (Fitness to Practise) Rules Order of Council 2006* ('the Rules'), and section 50A of the Act.
6. The hearing bundle contained a copy of the Notice of Hearing, dated 7 October 2024 ('the notice'), which was sent to Mr Kalhor Sadighi's registered address by Special Delivery and First-Class post.
7. The 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. However, the Royal Mail 'Track and Trace' receipt, also provided within the hearing bundle, confirmed that the copy of the notice sent by Special Delivery was delivered on 8 October 2024 and signed for in the printed name of 'SADIGHI'.
8. The Committee further noted that on 7 October 2024, a copy of the notice was sent to Mr Kalhor Sadighi by email.
9. The Committee was satisfied that the notice sent to Mr Kalhor Sadighi complied with the 28-day notice period required by the Rules. It was further satisfied that the notice contained all the required particulars, including the date and time of the hearing, that it was intended that the hearing would take place remotely and on the papers. Mr Kalhor Sadighi was also advised that the Committee had the power to proceed with the hearing in his absence.
10. On the basis of all the information provided, the Committee was satisfied that notice of the hearing had been served on Mr Kalhor Sadighi in accordance with the Rules and the Act.

Decision on whether to proceed with the hearing in the absence of the registrant and on the papers

11. The Committee next considered whether to exercise its discretion under Rule 54 of the Rules to proceed with the hearing in the absence of Mr Kalhor Sadighi, and any representative for either party. It approached this issue with the utmost care and caution. The Committee took into account the factors to be considered in reaching its decision, as set out in the case of *R v Jones* [2002] UKHL 5, and as affirmed in the joined regulatory cases of *General Medical Council v Adeogba* and *General Medical Council v Visvardis* [2016] EWCA Civ 162.

12. The Committee remained mindful that fairness to Mr Kalhor Sadighi was an important consideration, but it also took into account the need to be fair to the GDC. The Committee further considered the public interest in the expeditious review of the current order of suspension on Mr Kalhor Sadighi's registration.

13. The Committee was satisfied that the GDC had made all reasonable efforts to notify Mr Kalhor Sadighi regarding this hearing. It noted that in addition to the notice of 7 October 2024, which was sent to him by post and email, the Council sent further emails on 15 and 16 October 2024 to enquire whether he would be attending and/or represented today.

14. The Committee took into account that in the notice of 7 October 2024, and in the follow-up email of 15 October 2024, Mr Kalhor Sadighi was informed that, should the GDC not hear from him by 18 October 2024, the Council would be requesting for the hearing to proceed on the papers in the absence of both parties. There is no indication before the Committee that Mr Kalhor Sadighi responded to any of the GDC's correspondence.

15. The Committee noted that Mr Kalhor Sadighi attended the last review hearing of his case in December 2023, and so would have been aware of the timeframe for this next review. The Committee considered that Mr Kalhor Sadighi has had ample opportunity to respond to the GDC regarding this hearing. He has not provided any reason for his non-attendance, nor has he requested an adjournment. Further, the Committee has received no information to suggest that deferring today's review would secure his attendance on a future date. It was the view of the Committee that Mr Kalhor Sadighi has waived his right to attend and/or be represented at this hearing. It concluded that, in the circumstances, an adjournment would serve no meaningful purpose.

16. In reaching its decision, the Committee took into account the overarching objective of the GDC to protect the public and the wider public interest. The Committee bore in mind its statutory duty to review the substantive order of suspension currently on Mr Kalhor Sadighi's registration, which is due to expire in December 2024. The Committee considered that without good reason for an adjournment, today's hearing should go ahead as scheduled.

17. Accordingly, the Committee was satisfied that it was fair and in the public interest to proceed with the hearing on the papers in the absence of both parties.

Case background

18. This case involves matters relating to Mr Kalhor Sadighi's clinical practice, as well as matters concerning his health.

19. The clinical matters arose from separate complaints received by the GDC in February and March 2018 from two patients, Patient A and Patient B. A Professional Conduct Committee had been due to consider the clinical matters concerning the patients at a hearing in January 2020. However, that hearing was postponed following a successful preliminary application made on Mr Kalhor Sadighi's behalf, by his then representative. The postponement application was made on grounds pertaining to Mr Kalhor Sadighi's health.

20. In October 2021, the GDC's Case Examiners considered and referred health allegations to the Health Committee (HC).

Initial Health Committee hearing – May 2021

21. Mr Kalhor Sadighi's case was first considered by the Health Committee (HC) at a hearing which took place from 10 to 14 May 2021. He attended that hearing and represented himself. That initial HC considered both the health and clinical allegations.

22. In respect of the clinical allegations, the initial HC found proved that between 2002 and 2017, Mr Kalhor Sadighi failed to provide an adequate standard of care to Patient A and Patient B, by not taking radiographs, or radiographs of sufficient diagnostic value, when these were clinically indicated. The initial HC also found that there were substantial failings in Mr Kalhor Sadighi's record keeping for both patients over that same period, including failures in the recording, evaluation and justification of radiographs, as required by the Ionising Radiation (Medical Exposure) Regulations (IRMER) 2000. In reaching its decisions on the clinical matters, the Committee accepted the evidence of the GDC's expert witness, Mr Conor Mulchay, a Specialist in Prosthodontics.

23. Additionally, the initial HC found proved that Mr Kalhor Sadighi had adverse health conditions. [PRIVATE].

24. The initial HC determined that the facts found proved in respect of the clinical matters amounted to misconduct. That Committee noted that Mr Kalhor Sadighi's failings were repeated over a 15-year period and involved more than one patient. Mr Mulchay opined that Mr Kalhor Sadighi's failings in radiography and his failures to record, justify and evaluate radiographs fell far below the standard reasonably expected.

25. The initial HC went on to determine that Mr Kalhor Sadighi's fitness to practise was impaired by reason of his misconduct and his adverse health. In relation to the issue of Mr Kalhor Sadighi's misconduct, the initial HC stated the following in its decision on impairment, which was addressed to him:

"The Committee was of the view that your misconduct is clearly remediable through reflection, learning and evidence of embedded improvement in practice. However, you have not provided any such evidence. It was only at this stage of the proceedings that you began to accept responsibility for your record keeping and radiography failings. During the factual

inquiry you had denied the allegations against you on the basis that the records were made on your behalf by your dental nurse or assistant, and that you were not responsible for what they recorded. You denied that there was any deficiency in your radiography practice.

In the Committee's judgment you show only limited insight into your misconduct. You are yet to demonstrate to the Committee and understanding of the importance of maintaining adequate records and of your responsibility as the dentist in ensuring that any records made on your behalf by those assisting you are complete and accurate. You are yet to show any acknowledgement of the risk of harm you exposed Patients A and B to through your failures in radiography and of the importance of complying with Ionising Radiation (Medical Exposure) Regulations (IRMER) 2000.

You have provided the Committee with only limited evidence of CPD activity, for which there is no reflection from you or other evidence of your learning in respect of each activity.

The two testimonials you provided to the Committee were from 2018 and were of limited assistance to the Committee.

For reasons beyond your control, you have also not practised for the past 3 years and therefore have not had an opportunity to demonstrate any embedded improvement in practice.

In the Committee's judgment there remains a real risk of your repeating your misconduct should you be allowed to practise without restriction..."

26. In relation to Mr Kalhor Sadighi's health, the initial HC stated that:

"[PRIVATE].

Accordingly, the Committee determined that your fitness to practise is also currently impaired by reason of your adverse health".

27. The initial HC determined to suspend Mr Kalhor Sadighi's registration for a period of 12 months. It was satisfied that a period of suspension was necessary and proportionate at that stage, in order to protect the public and public confidence in the profession. An immediate order of suspension was also imposed.

28. The initial HC directed a review of the substantive suspension order shortly before the end of the 12-month period. In directing the review, that Committee recommended to Mr Kalhor Sadighi that:

"A reviewing Committee may be assisted by evidence of your insight and remediation in respect of your misconduct and [PRIVATE]."

First resumed hearing – June 2022

29. The HC reviewed the substantive order of suspension at a resumed hearing held on 1 June 2022. Mr Kalhor Sadighi attended that hearing and represented himself.

30. That Committee noted the efforts made by Mr Kalhor Sadighi to undertake various CPD. It also took into account his evidence that he had tried to choose courses to target the misconduct concerns identified by the initial HC. It was noted however, that Mr Kalhor Sadighi had been unable to demonstrate how the CPD he had undertaken had been embedded into his practice, as he was unable to practise as a dentist while suspended.

31. In relation to Mr Kalhor Sadighi's health, the HC in June 2022 stated that:

[PRIVATE].

32. The HC in June 2022 determined that Mr Kalhor Sadighi's fitness to practise remained impaired by reason of his misconduct and his adverse health. It stated that a finding of impairment was necessary *"In order to fulfil the regulatory objective to protect patients, whilst maintaining confidence in the profession"*.

33. The HC in June 2022 determined to extend the suspension order on Mr Kalhor Sadighi's registration by a period of six months, with a review to be undertaken shortly before the end of the six-month period. The HC in June 2022 stated that:

Any reviewing committee would be assisted by:

[PRIVATE].

Second resumed hearing – November 2022

34. The suspension order was further reviewed at a resumed hearing held on 25 November 2022. On that occasion, the review was conducted on the papers in the absence of both parties.

35. The HC in November 2022 noted that Mr Kalhor Sadighi had not engaged with the GDC in the months since the last resumed hearing, and as such, had not provided any evidence to indicate he had fulfilled the recommendation of the previous Committee.

36. The HC in November 2022 considered that a finding of impairment remained necessary on the grounds of misconduct and health.

37. That Committee further determined to extend the suspension order by a period of 12 months, with a review. That Committee suggested that any reviewing Committee may be assisted by the following from Mr Kalhor Sadighi:

- Evidence of relevant training in relation to the deficiencies identified by the previous Committees.
- Evidence of ongoing CPD.
- Written reflections on both of the above.

- [PRIVATE].

Third resumed hearing – December 2023

38. A third resumed hearing in respect of Mr Kalhor Sadighi's case was held from 11 to 12 December 2023. This was following the postponement of an earlier scheduled hearing in November 2023 at the request of Mr Kalhor Sadighi.

39. Mr Kalhor Sadighi attended the resumed hearing in December 2023 and represented himself.

40. In relation to Mr Kalhor Sadighi's misconduct, the HC in December 2023 stated the following:

"... the Committee noted that since the order was last reviewed in November 2022, you have not provided any evidence of remediation of your clinical failings in your practice relating to record keeping and radiographic practice. The Committee took into account that you have not demonstrated any insight into the failings in your practice. You have not acknowledged that there were issues with your practice and on this basis, the Committee concluded it has significant misgivings about your insight. As a result, there remains a significant risk of harm to patients

Despite specific assistance at the end of each of your determinations, you have chosen not to pursue the advice of the previous HCs. The Committee bore in mind that the GDC contacted you on numerous occasions detailing what you would need to provide to any reviewing committee and that you had not done so.

In the absence of any insight or reflection and without any evidence of recent training, the Committee considered that your remediable misconduct has not yet been addressed..."

41. In relation to the issue of Mr Kalhor Sadighi's health, it was stated that:

"[PRIVATE]"

42. The HC in December 2023 determined that Mr Kalhor Sadighi's fitness to practise remained impaired by reason of his misconduct and his adverse health. It directed that the suspension order on his registration be further extended by a period of 12 months.

43. In directing another review of the order shortly before the expiry of the 12-month period, the HC in December 2023 repeated the recommendations made by the previous Committee in November 2022, namely that a reviewing Committee may be assisted by the following:

- Evidence of relevant training in relation to the deficiencies identified by the previous Committees.
- Evidence of ongoing CPD.
- Written reflections on both of the above.
- [PRIVATE].

Today's resumed hearing – 5 November 2024

44. This is the fourth review of the substantive order of suspension first imposed on Mr Kalhor Sadighi's registration in May 2021. In comprehensively reviewing the order today, the Committee considered all the evidence provided. It took account of the written submissions provided by the GDC in respect of this review. The Committee accepted the advice of the Legal Adviser.

45. No written submissions were received from, or on behalf of, Mr Kalhor Sadighi.

46. In its written submissions the GDC submitted that:

"The Registrant has not engaged with the Council since the last review hearing..."

It appears that the registrant has chosen not to pursue the advice provided by the previous reviewing Health Committee.

The Committee will be aware that the persuasive burden that the Registrant's fitness to practise is no longer impaired lies with the Registrant (Abrahaem v General Medical Council [2008] EWHC 183 (Admin)...The Committee will note that the Registrant has not provided any information to address the concerns that were identified by the previous Committees.

The Council submits that there is no evidence to show any material change in position since the last hearing...

47. The GDC further submitted that *"The Registrant's failings are serious, continued over a long period of time and concern a fundamental aspect of dentistry, directly linked to patient safety. Although easily remediable, the Registrant has not been able to demonstrate how he has embedded his learning since the initial hearing into practise due to the current suspension order. The Registrant has therefore been out of clinical practise for some time. The Registrant's fitness to practise therefore remains impaired by reason of his misconduct, on the ground of public protection and public interest. In respect of impairment by reason of health, there is currently no information sufficient to determine whether the Registrant is currently fit to practise as a dentist.*

48. It was the GDC's submission that it would now be appropriate and proportionate to suspend Mr Kalhor Sadighi's registration indefinitely.

Decision on impairment

49. The Committee considered whether Mr Kalhor Sadighi's fitness to practise currently remains impaired by reason of his misconduct and his adverse health. 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.

50. The Committee took into account that, at this review, the burden is upon Mr Kalhor Sadighi to demonstrate that he has addressed his past impairments. However, he has not engaged with the

GDC since the last review hearing in December 2023. Consequently, there is no evidence before this Committee today of any material change in the circumstances of this case.

51. At the last review hearing in December 2023, it was determined that Mr Kalhor Sadighi had not demonstrated that he had addressed his misconduct. That Committee reiterated the recommendations made previously regarding what evidence might be helpful on review. This Committee has not received any evidence in accordance with those recommendations. There is no information before it in relation to any relevant training Mr Kalhor Sadighi has undertaken in relation to the clinical deficiencies identified by the previous Committees. Nor is there any evidence in respect of any ongoing CPD or written reflections. This suggests that Mr Kalhor Sadighi continues to lack sufficient insight into the seriousness of his clinical failings.

52. There is also no further information in respect of Mr Kalhor Sadighi's health. [PRIVATE].

53. In all the circumstances, the Committee determined that Mr Kalhor Sadighi's fitness to practise remains impaired by reason of his misconduct and his adverse health. The Committee was satisfied that a finding of current impairment is necessary in this case to protect the public, to maintain public confidence in the dental profession and to uphold proper professional standards.

Decision on sanction

54. The Committee next considered what action to take in respect of Mr Kalhor Sadighi's registration. It had regard to section 27C(1) of the Act, which sets out the options available to it at this review.

55. 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 Kalhor Sadighi's own interests.

56. The Committee considered that some action in respect of Mr Kalhor Sadighi's registration is necessary, given the ongoing risk to the public and the wider public interest in this case. The Committee therefore determined that it would be inappropriate to terminate the current order of suspension and take no further action or to allow the order to lapse.

57. The Committee considered whether to replace the current order of suspension with a conditions of practice order. However, given Mr Kalhor Sadighi's lack of engagement with this fitness to practise process, the Committee was not reassured that he would comply with conditions even if they could be formulated. Accordingly, the Committee concluded that conditional registration would not be appropriate, proportionate or sufficient to protect the public or to uphold the wider public interest.

58. The Committee next considered whether to suspend Mr Kalhor Sadighi's registration for a further specified period up to a maximum of 12 months. In doing so, the Committee took into account the long history of this case during which Mr Kalhor Sadighi has failed to engage meaningfully with the fitness to practise process. He has repeatedly failed to provide sufficient evidence to demonstrate

that he has addressed the concerns raised by the previous Committees. This is despite the clear and specific recommendations made by those Committees, which were also reiterated in correspondence sent to him by the GDC. As a result, Mr Kalhor Sadighi's case is no further forward than it was in May 2021.

59. The Committee also bore in mind the public interest and fairness to the GDC in the context of repeated review hearings over a number of years with little or no progress. Mr Kalhor Sadighi is not currently engaging with his regulatory body and there has been no indication from him as to whether he wishes to do so.

60. In all the circumstances, the Committee decided against a further period of suspension. It was not persuaded that a further extension of the current order would serve any useful purpose. In reaching its decision, the Committee was satisfied that the public interest outweighs Mr Kalhor Sadighi's own interests in this particular case. The Committee considered that the onus should now rest with him to contact the GDC if and when he is willing to engage with its processes.

61. Accordingly, the Committee directs the indefinite suspension of Mr Kalhor Sadighi's registration in accordance with section 27C(1)(d) of the Act. In making this direction, the Committee was satisfied that the criteria for imposing an indefinite suspension are met.

62. Unless Mr Kalhor Sadighi exercises his right of appeal, his registration will be suspended indefinitely, 28 days from the date that notice of this direction is deemed to have been served upon him. In the event that he does exercise his right of appeal, the suspension order currently in place on his registration will remain in force until the resolution of the appeal.

63. That concludes this determination.