

PUBLIC HEARING

Professional Conduct Committee Review Hearing

1 September 2023

Name: Moldoveanu, Ana Maria

Registration number: 204165

Case number: CAS- 178023-S4L8J0

General Dental Council: Rochelle Williams, IHLPs

Registrant: Not present and unrepresented

Fitness to practise: Impaired by reason of misconduct

Outcome: Suspended indefinitely

Committee members: Humza Anwar
Bill Nelson
Kate Birrell

Legal adviser: Melanie Swinnerton

Committee Secretary: Jamie Barge

1. This is a resumed hearing before the Professional Conduct Committee (PCC) pursuant to section 27C of the *Dentists Act 1984 (as amended)* ('the Act'). Members of the Committee, the Legal Adviser and the Committee Secretary, are participating via Microsoft Teams in line with the General Dental Council's current practice of holding hearings remotely.
2. The purpose of this hearing has been for the Committee to review Ms Moldoveanu's case and determine what action should be taken in relation to her registration. Neither party is participating in today's hearing, following a request for the review to be conducted on the papers via Microsoft Teams.
3. The Committee first considered the issues of service and whether to proceed with the hearing in the absence of Ms Moldoveanu and any representatives for either party. The Committee accepted the advice of the Legal Adviser on these matters.

Decision on service

4. The Committee considered whether the notice of the hearing had been served on Ms Moldoveanu in accordance with Rules 28 and 65 of the *General Dental Council (Fitness to Practise) Rules 2006 Order of Council* ('the Rules').
5. The Committee received from the GDC an indexed hearing bundle of 53 pages. The bundle contained a copy of the Notice of Hearing dated 1 August 2023 ('the notice'), which was sent to Ms Moldoveanu's registered address. A copy of the notice was also sent to her by email. The Committee noted from the associated Royal Mail 'Track and Trace' receipt, also within the hearing bundle, that delivery of the notice letter had been delivered and signed for on 2 August 2023. 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.
6. The Committee was satisfied that the notice sent to Ms Moldoveanu complied with the required 28 day notice period. It was also satisfied that it contained proper notification of today's hearing, including its date and time, as well as confirmation that the hearing would be held remotely via Microsoft Teams. Ms Moldoveanu was further notified that the Committee had the power to proceed with the hearing in her absence.
7. On the basis of all the information provided, the Committee was satisfied that notice of the hearing had been served on Ms Moldoveanu in accordance with the Rules and the Act.

Decision on whether to proceed with the hearing in the absence of Ms Moldoveanu

8. The Committee next considered whether to exercise its discretion under Rule 54 to proceed with the hearing in the absence of Ms Moldoveanu. 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 [2003] 1 AC 1HL* and as explained in the cases of *General Medical Council v Adeogba [2016] EWCA Civ 162*. The Committee remained mindful of the need to be fair to both Ms Moldoveanu and the GDC, taking into account the public interest in the expeditious review of this case.

9. The Committee noted from the Notification of Hearing letter of 1 August 2023 that Ms Moldoveanu was asked to confirm by 9 August 2023, if there is any reason why this hearing should not proceed on the papers. The information before the Committee indicates that there has been no response from Ms Moldoveanu. She has not provided a reason for her non-attendance, nor has she requested an adjournment.
10. It therefore concluded that she had voluntarily absented herself from today's proceedings. The Committee noted there was no information before it to indicate that an adjournment was likely to secure her attendance on a future date. It noted that Ms Moldoveanu has not engaged with the GDC prior to the subsequent reviews in August 2021 and August 2022, which were both conducted orally.
11. In all the circumstances, the Committee determined that it was fair and in the public interest to proceed with the hearing in the absence of Ms Moldoveanu and on the papers.

Background

12. On 27 October 2016 the Professional Conduct Committee (PCC) found Ms Moldoveanu's fitness to practise to be impaired by reason of misconduct, summarising the background to the case as follows:
13. Between 28 February 2014 and 27 March 2014 Ms Moldoveanu provided Patient A with cosmetic treatment involving tooth whitening, class 5 composite restorations and, subsequently, the placement of composite veneers. She failed to carry out sufficient diagnostic assessments by not obtaining a full medical history and by not undertaking a Basic Periodontal Examination (BPE). Ms Moldoveanu also failed to carry out sufficient treatment planning and she did not obtain the patient's informed consent for the treatment provided to her.
14. Ms Moldoveanu's record keeping for the patient was extremely poor.
15. These were most basic and fundamental failings occurring over a short period of time. The Committee accepted the expert evidence that most of Ms Moldoveanu's failings fell far below the standard reasonably to be expected of her.
16. Ms Moldoveanu's also failed to have adequate indemnity insurance in place between 1 April 2012 and 28 February 2015; and provided dental services whilst failing to have adequate indemnity insurance in place. The failure to have adequate indemnity cover in place whilst providing dental services is a breach of fundamental requirements of professional practice and she had offered no satisfactory explanation for that failure.
17. The October 2016 PCC directed that Ms Moldoveanu's registration be made subject to her compliance with conditions for a period of 24 months, with a review.
18. The review hearing was held on 23 October 2018, when the PCC found that Ms Moldoveanu's fitness to practise continued to be impaired in respect of the clinical matters, stating in its determination:
19. *...The Committee notes from your personal statement that the outcome of the PCC hearing in October 2016 had a strong impact on you. You accepted fully that you did not have indemnity cover and have assured the Committee that you will not find yourself in that situation again. It is satisfied that you have taken responsibility for your failure to have held adequate indemnity cover between April 2012 and February 2015. It notes your expression*

of remorse in relation to this failure. The Committee has also had regard to the evidence which shows that you have worked hard to address the concerns in this case insofar as you are able, given your current working situation. Taking all these factors into account, including the passage of time since the events in question, the Committee has concluded that a finding of current impairment is no longer necessary in the wider public interest.

20. *The Committee further considers that you have demonstrated insight into the shortcomings in relation to the clinical matters, as demonstrated by the steps you have taken thus far and reflected in your personal statement. It is encouraged by the progress you have made. However, given that you have not been able to practise as a dentist you have not been in a position to demonstrate any remediation of the clinical matters identified by the PCC two years ago. In the absence of such evidence, the Committee has concluded that the risk of repetition of the clinical matters relating to Patient A remains. It therefore finds that your fitness to practise remains impaired by reason of your misconduct...*
21. The October 2018 PCC varied the conditions and extended the period of conditional registration by 12 months, with a review.
22. The review hearing was held on 28 October 2019. Ms Moldoveanu was yet to resume practice in the United Kingdom. The PCC found that her fitness to practise continued to be impaired by reason of the clinical matters only and directed that the period of conditional registration be extended by 9 months with a review, stating in its determination that:
23. *...It was satisfied that this period of time would be sufficient for you to complete your return to work course, conduct the necessary audits of your practice and provide the information to the GDC, were you to return to work in the UK...*
24. The review hearing was held on 27 July 2020, when the PCC found that Ms Moldoveanu's fitness to practise continued to be impaired by reason of the clinical matters only. The July 2020 PCC varied the conditions and extended the period of conditional registration with a review, stating in its determination that:
25. *"The Committee was satisfied that there was no evidence before it that you had breached any of the conditions currently imposed on your registration. However, it noted that you have not been able to fully engage with your conditional registration, as you have been unable to return to the UK to work. The Committee was satisfied from your written reflections and from your reflections given in person at this hearing that you have a good level of insight into your failings. You appear to feel deeply about the matters that brought you before the GDC and the Committee was satisfied that you have learnt from the experience. Notwithstanding this, the Committee considered that to demonstrate that you have remedied all aspects of the misconduct found in 2016, more rigorous evidence than you have provided is required.*
26. *The Committee was satisfied that your previous lack of indemnity insurance has been dealt with sufficiently and that there is no ongoing concern in this regard. As such, this Committee agreed with the two previous review Committees that the wider public interest is no longer engaged in this case. However, in respect of the other failings identified in your clinical practice in the areas of record keeping, examination, diagnosis and treatment planning, periodontal disease and informed consent, the Committee does not consider that you have provided evidence to satisfy it that you have remedied these failings. In reaching this conclusion, the Committee took into account the evidence you provided to it, including the evidence of the 'Return to Work' two-day course you completed, the dental images and the two patient case studies from your current practice in Bucharest. Whilst the Committee noted your submissions, it was not satisfied that any of this evidence demonstrates how you have embedded your learning into your clinical practice. The Committee noted that you referred to the case studies as audits, however, it was not satisfied that they could be described as*

audits. The case studies did not appear to include the information that would typically be found in audits, including verification by a supervising signatory.

27. *...It was satisfied that the current order of conditions remains workable and could, with full engagement, address the concerns raised in relation to your practice. The Committee was also satisfied that the conditions remain adequate to protect the public...*
28. The matter was reviewed again in August 2021 where that Committee determined that Ms Moldoveanu's fitness to practise continued to be impaired. It determined to revoke the conditions of practise order and replace it with suspension for a period of 12 months, stating in its determination that:
29. *...The Committee determined that conditions of practice are no longer workable owing to Ms Moldoveanu's disengagement from the proceedings. She has not engaged with the GDC at all since the last review hearing, including by not returning a signed list of her conditions to confirm her agreement to comply with them. Regrettably, suspension is now necessary and proportionate. The Committee therefore directs that the conditions on Ms Moldoveanu's registration be replaced by a period of suspension for 12 months. This period is to allow Ms Moldoveanu sufficient time to consider her position and to re-engage in these proceedings. As identified by the initial and previous reviewing Committees, Ms Moldoveanu's misconduct is remediable through conditional registration with her full engagement. It is therefore hoped that she will re-engage so that she can complete her remediation.*
30. The matter was reviewed again in August 2022 where that Committee determined that Ms Moldoveanu's fitness to practise continued to be impaired. It determined to extend the suspension for a further period of 12 months, stating in its determination that:
31. *The Committee next considered whether it could formulate conditions which would be workable and which would address the ongoing risks. The Committee concluded that it could not formulate any conditions which would be practicable or workable, particularly given Miss Moldoveanu's lack of engagement in these proceedings and the lack of confidence that the Committee has as a result in being able to formulate workable conditions with which Miss Moldoveneanu would comply.*
32. *The Committee then went on to consider whether it would be appropriate to extend the current period of suspension. The Committee concluded that it would be appropriate and proportionate to extend the suspension for a further period of 12 months, with a review hearing to take place prior to the end of that extended period of suspension. In the Committee's judgment a lesser period of time would not be sufficient for Miss Moldoveanu to commence and complete the process of engagement and remediation.*
33. It is the role of the Committee today to undertake the review directed by the August 2022 PCC.

The resumed hearing

34. Today is the sixth review. In comprehensively reviewing this case today, the Committee considered all the evidence presented to it. It took account of the written submissions provided by the GDC. The Committee accepted the advice of the Legal Adviser. No written representations were provided on behalf of Ms Moldoveanu.
35. In its written submissions, the GDC submits that there is no evidence to show any material change in position since the last hearing. Ms Moldoveanu has failed to engage with the GDC despite many attempts to contact her. Ms Moldoveanu has not provided the GDC with any reflections or evidence of remediation. Therefore, the GDC submits that Ms Moldoveanu's fitness to practise remains impaired by reason of her misconduct. In relation to sanction, the

GDC submits that it would be appropriate and proportionate to consider imposing an indefinite suspension on Ms Moldoveanu's registration. Ms Moldoveanu will have been suspended for more than two years by the date on which the direction will take effect.

Decision on impairment

36. The Committee considered whether Ms Moldoveanu's fitness to practise remains impaired by reason of her misconduct. In doing so, it exercised its own 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.
37. The Committee noted that Ms Moldoveanu has not engaged with the GDC since her review in July 2020. The Committee notes that since the last review hearing in August 2022 the GDC emailed Ms Moldoveanu on 11 August 2022 to inform her of the outcome. On 25 May 2023, the GDC further contacted Ms Moldoveanu to remind her of the recommendations made by the previous reviewing Committee and stated *"In light of the possible date of your review hearing, I would be grateful if you would submit the aforementioned evidence to me, if you wish to do so, by 11 August 2023"*. The Committee notes that there has been no response from Ms Moldoveanu.
38. The Committee went on to consider whether Ms Moldoveanu's fitness to practise is still impaired by reason of her misconduct. It bore in mind that at a review hearing the onus is on the registrant to demonstrate that their fitness to practise is no longer impaired. There is no evidence before this Committee that Ms Moldoveanu has recognised the seriousness of her misconduct, demonstrated insight or provided any information as recommended to her by previous reviewing PCCs. It also notes that Ms Moldoveanu has not meaningfully engaged with the GDC in relation to these proceedings over a protracted period of time, despite repeated attempts by the GDC to secure her involvement. Given its concerns regarding Ms Moldoveanu's lack of insight and remediation the Committee considers that Ms Moldoveanu's fitness to practise remains impaired by reason of her misconduct.

Sanction

39. The Committee next considered what direction, if any, to make. It has had regard to the GDC's "Guidance for the Practice Committees including Indicative Sanctions Guidance" (Effective October 2016, revised December 2020).
40. The Committee has borne in mind the principle of proportionality, balancing the public interest against Ms Moldoveanu's own interests. The public interest includes the protection of the public, the maintenance of public confidence in the profession, and declaring and upholding proper standards of conduct and performance within the profession.
41. The Committee first considered whether it would be appropriate to allow the current order to lapse at its expiry or to terminate it with immediate effect. Given Ms Moldoveanu's lack of engagement with the GDC and the absence of any remediation or insight into her misconduct, the Committee has concluded that it would not be appropriate to terminate the current order or to allow it to lapse.
42. The Committee next considered whether a period of conditional registration would be appropriate in this case but in the absence of any engagement by Ms Moldoveanu it is not currently possible to devise any workable conditions.
43. The Committee then went on to consider whether to direct that the current period of suspension be extended for a further period. It has borne in mind Ms Moldoveanu's lack of engagement with the GDC over a sustained period of time. Ms Moldoveanu has not attended her last two review hearings and has not provided any information as set out in previous PCC's recommendations. The Committee also notes that this matter has been on-going since 2016. In these circumstances, the Committee has concluded that a further time limited period

of suspension is unlikely to achieve her engagement or delivery of material requested to assist any future Committee, and would represent a disproportionate use of the GDC's resources.

44. The Committee concluded therefore in these circumstances an indefinite period of suspension is the appropriate and proportionate outcome and is required in order to maintain public protection and to maintain confidence in the profession. It therefore directs that Ms Moldoveanu's registration be suspended indefinitely. The Committee noted that indefinite suspension would leave the option open to Ms Moldoveanu to reengage with her regulator in the future if she wishes to do so. It would therefore be proportionate.
45. The effect of the foregoing direction is that, unless Ms Moldoveanu exercises her right of appeal, her registration will be suspended indefinitely from the date on which the direction takes effect; she will not be able to seek a review until at least two years have elapsed from that date.
46. That concludes this hearing.