

Hearing part-held in private
PUBLIC DETERMINATION

Summary

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| Name: | GAIZIUNAS, Ramyras [Registration number: 84597] |
| Type of case: | Professional Conduct Committee (review) |
| Outcome: | Suspended indefinitely |
| Date: | 16 September 2022 |
| Case number: | CAS-190175 |

Dr Gaiziunas,

This is a hearing before the Professional Conduct Committee pursuant to section 27C of the '*Dentists Act 1984 (as amended)*' ('the Act'). Members of the Committee, as well as the Legal Adviser and the Committee Secretary, are participating via Microsoft Teams in line with the General Dental Council's (GDC) current practice of holding hearings remotely.

You were present at the hearing and unrepresented.

Ms Priya Malhotra, Case Presenter, appeared on behalf of the GDC.

Application for the hearing to be held partly in private

At the beginning of the hearing, Ms Malhotra, on behalf of the GDC, made an application under Rule 53 of the '*General Dental Council (Fitness to Practise) Rules Order of Council 2006*' ('the Rules') that this hearing be held partly in private when references are made to your health. She also informed the Committee that you may refer to your personal relationships during the course of the proceedings.

You indicated that you supported the application.

The Committee bore in mind that, as a starting point, hearings should be conducted in public session. However, Rule 53 indicates that all or part of a hearing may be held in private where the interests of the parties or the protection of the private and family life of the respondent or any other person so requires.

The Committee was satisfied that your personal interests outweighed the public interest in this case and that the hearing should be held in private when discussing matters relating to your health and your personal relationships.

The Committee therefore acceded to Ms Malhotra's application.

Background

This hearing was convened to review the current suspension order, which is due to expire on 30 September 2022.

This is the second review of a substantive order initially imposed by the Professional Conduct Committee ('the PCC') as a suspension on your registration on 26 August 2020.

The order was also reviewed on the following date:

- 13 September 2021 (Suspension order extended for 12 months, with a review).

At the initial substantive hearing, that PCC found your fitness to practise impaired by reason of misconduct. The background to the initial PCC's findings was summarised as follows:

"There were substantial failures in your care and treatment of Patient A, ranging from diagnosis and treatment planning, obtaining informed consent, checking her medical history, record keeping, radiographic practice, antimicrobial prescribing, through to the standard of treatment provided. The Committee accepted ... that your clinical failings fell far below the standard reasonably expected of you. These were basic and fundamental aspects of dental practice.

You also worked unsupported in your appointments with Patient A out of hours, which potentially put Patient A at unnecessary risk of harm.

Your breach of Patient A's confidentiality was a breach of a fundamental tenet of the profession.

Your conduct in initially approaching Witness 1 in an aggressive and threatening manner was inappropriate and unprofessional, not least because you were breaching Patient A's confidentiality in the process but also because Witness 1 was vulnerable: she was a patient in a public hospital waiting area awaiting important test results when you approached her.

The initial PCC also found your fitness to practise impaired by reason of your conviction. The background to your convictions was summarised in the initial hearing as follows:

...the convictions particularised at charges 13 to 15. The Committee reminded itself that the restraining and non-molestation orders are not convictions in themselves, but civil matters. The fact and circumstances of those orders were not taken into account by the Committee when reaching its decision: the issue before the Committee was your convictions for breaching those orders and not the fact that the orders (the full details of which were not before the Committee) had been made against you. The Committee accepted that there is a context to your offending, there being a chain of events starting with your writing a letter to the person protected in the non-molestation order. You stated that you did not understand at the time that this would be in breach of the court order. However, sending the letter was in breach of the court order for which a criminal sentence was imposed. Prior to this you had no criminal record.

In respect of the conviction at charge 14, you pleaded guilty to the offence and were convicted of carrying a lock knife in a public place. The Committee considered that the public would consider this to be a serious matter for a

registered dental professional and that this would have a detrimental effect on the reputation of the profession.

In relation to the convictions at charge 15, you were sentenced to a total of 2 years imprisonment... You were released from prison on licence in October 2019..."

The reviewing PCC in September 2021 gave the following reasons for its finding of impairment:

"You are no longer subject to your criminal sentence and you appear in the submission of the GDC to have complied with the suspension on your registration. In the Committee's judgment, the period of suspension has achieved its declaratory effect of marking your convictions. Your fitness to practise as a dentist is no longer impaired by reason of your convictions.

The remaining issues before the Committee are those relating to your misconduct. There is no evidence before the Committee of any remediation in respect of these matters. There continues to be a blanket denial by you of these matters and/or their significance to your fitness to practise. You do not accept the findings of the initial PCC and have given no indication of any intention to develop insight or to address your failings. There has been no change or progress since the initial hearing. Your misconduct is remediable but you have demonstrated no remediation and no intention to remedy your misconduct. There remains a high risk of repetition and therefore a risk to the public should you be allowed to practise without restriction. Public confidence in the profession and this regulatory process would also be seriously undermined if no finding of impairment were to be made, owing to your continued total lack of insight and your continued failure to take any steps to accept and remedy your misconduct.

Accordingly, the Committee determines that your fitness to practise continues to be impaired by reason of your misconduct on both public protection and wider public interest grounds."

The reviewing PCC directed that your registration be subject to suspension for a further period of 12 months with a review, stating:

"The Committee determined that a further period of suspension remains necessary, owing to your complete lack of remediation... Conditions of practice would be neither workable nor proportionate owing your total lack of insight and your failure to have taken any remedial steps over the past 12 months.

Your main focus today was on your sense of injustice in relation to your convictions. However, the Committee has now found that your fitness to practise is no longer impaired by reason of your convictions. Whether or not you were wrongly convicted is now irrelevant to the question of your current fitness to practise. You must now address and reflect upon your misconduct.

The Committee has extended your suspension for the maximum period because you have declared your current intention not to accept the findings against you and thus not to attempt any remediation. This attitude is of significant concern to the Committee. Should you ever wish to resume

practice as a dentist you must accept the findings of the PCC and you must address the shortcomings in your practice and conduct which were identified. If you are willing to do so and can provide substantial and credible evidence of that you may be able to seek an early review of this order to enable you to return to practice.

Any reviewing Committee will be assisted by evidence of your reflection, which can include a written reflective statement, and evidence of the remedial steps you have taken to address your misconduct. Whilst it is a matter for the judgment of any reviewing Committee, if you fail to demonstrate insight and remediation into your misconduct it is likely that the suspension of your registration will be further extended and this may include a direction of indefinite suspension.”

Submissions

Ms Malhotra, on behalf of the GDC, submitted that due to the absence of any reflection, remediation, or insight into your misconduct since the last review, it is now appropriate for your registration to be suspended indefinitely.

You informed the Committee what you have been doing since the last review. You stated that you undertook reflection and submitted CPD in 2018 and that you have not provided any up-to-date reflection or CPD for the Committee to consider today. You explained that this was due to financial and health difficulties following your prison sentence.

Decision on review

The Committee considered whether your fitness to practise remains impaired. In reaching its decision on the issue of impairment, the Committee exercised its own independent judgement. It bore in mind that its duty is to consider the public interest, which includes the protection of the public, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour. The Committee accepted the advice of the Legal Adviser.

In deciding whether your fitness to practise remains impaired, the Committee considered what reflection or remediation has taken place since the last review and whether you have gained any insight into your misconduct.

The Committee took into account that you have still not accepted the initial PCC decision in relation to your misconduct. The Committee noted your assertions today that there had been difficulties for you in providing up to date CPD. However, two years since the initial hearing, there is still no information before the Committee that you have attempted to address the misconduct found proved. You have not provided any CPD to assure the Committee that you have maintained your clinical skills or knowledge. In addition, there is no information before the Committee that you have in any way accepted or acknowledged your misconduct and have not provided any evidence of remediation.

Without any indication that you have developed any insight into your misconduct or that you have taken any remedial steps, the Committee concluded that there remains a risk to patients should you be permitted to practise without restriction. As a result, the Committee concluded that your fitness to practise remains impaired on the ground of public protection.

In addition, the Committee concluded that public confidence in the profession, and the GDC as its regulator, would be undermined if a finding of impairment were not made in the circumstances. Therefore, the Committee also determined that your fitness to practise remains impaired on the ground of public interest.

The Committee had regard to the ‘*Guidance for the Practice Committees, including Indicative Sanctions Guidance*’ (Revised May 2019). The Committee considered what, if any, sanction to impose in this case. The Committee was aware of the range of sanctions available to it, as set out at 27C(1) of the Act:

- “(a) *that the suspension shall be terminated;*
- (b) *that the current period of suspension shall be extended for such further period, specified in the direction and not exceeding twelve months, beginning with the date on which it would otherwise expire;*
- (c) *that the suspension shall be terminated and the person’s registration in the register shall be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such conditions specified in the direction as the Practice Committee think fit to impose for the protection of the public or in his interests; or*
- (d) *that the person’s registration in the register shall be suspended indefinitely...*”

The Committee was aware that it should have regard to the principle of proportionality, balancing the public interest against your own interests. The public interest includes the protection of the public, the maintenance of public confidence in the profession, and declaring and upholding standards of conduct and performance within the profession.

In respect of a) above, the Committee considered that termination of the suspension would be wholly inappropriate in light of the Committee’s finding of continuing current impairment.

In respect of b) above, the Committee considered that extension of the suspension order for a period not exceeding 12 months was inappropriate in light of the continuing absence of insight or any remediation. It could have no confidence that this situation would change within that time frame.

In respect of c) above, the Committee considered that replacing the suspension order with a conditions of practice order would be inappropriate because it could have no confidence that you would comply with such an order, given your response to the suggestions and requirements of previous committees in respect of this matter.

In respect of d) above, the Committee considered that indefinite suspension is the appropriate and proportionate outcome. This will enable you to seek a review as and when (subject to the minimum period) you are ready to provide the reviewing committee with the evidence that might enable your return to practice. As indicated by the previous reviewing committee, such a reviewing committee may be assisted by:

- Evidence of your reflection, which can include a written reflective statement; and
- Evidence of the remedial steps you have taken to address your misconduct.

You may request a review of the indefinite suspension two years after 30 September 2022, which is the date upon which this order will take effect.

This will be confirmed to you in writing.

That concludes this determination.