

ON PAPERS

Registration Appeals Committee (CPD Appeal Meeting)

29 May 2024

Name: ZAHORECZ, Ildiko Gabriella

Registration number: 262922

Case number: CAS-205648-N7W8S7

General Dental Council: Ellen Murtagh, ILAS

Registrant: Unrepresented

Outcome: Appeal dismissed

Committee members: Gregory Heath (Chair, Dentist)
Alexandra Ward (Dental Care Professional)
Valerie Atkinson (Lay)

Legal adviser: Nicola Bircher

Committee Secretary: Andrew Keeling

1. This was an appeal meeting before the Registration Appeals Committee (RAC). The meeting was conducted remotely on Microsoft Teams.
2. The appeal was against the decision of the Registrar of the General Dental Council (GDC) to erase Ms Zahorecz from the Register for apparent non-compliance with the statutory Continuing Professional Development (CPD) requirements. The meeting was held in accordance with the terms of the General Dental Council (Registration Appeals) Rules Order of Council 2006 ('the Registration Appeal Rules'), pursuant to Schedule 4A of the Dentists Act 1984 (as amended) ('the Act').
3. Neither party was present at today's meeting. The Committee first considered the issues of service and whether to proceed with the meeting on the papers in the

absence of Ms Zahorecz and any representatives for either party. The Committee accepted the advice of the Legal Adviser on both of these matters.

Decision to conduct the appeal in the absence of Ms Zahorecz and on the papers

4. Notification of this appeal was sent to Ms Zahorecz by Recorded Delivery and secure email on 2 April 2024 in accordance with Rule 5 of the Registration Appeal Rules.
5. The Committee noted that conducting the appeal on the papers is the default position of the GDC unless an appellant requests an oral hearing. It took into account that the GDC's acknowledgement of Ms Zahorecz's appeal, dated 16 February 2024, informed Ms Zahorecz that she could request an oral hearing within 28 days of the date of the letter. Having considered the documents provided, the Committee was satisfied that Ms Zahorecz had made no such request. Furthermore, the Committee determined that it was clear from Ms Zahorecz's application to postpone this meeting, which had already been considered and refused by the Committee, that she was aware that the meeting would be taking place between 28 and 31 May 2024.
6. The Committee noted that the bundle of documents and case summary that the Committee would be considering were sent to Ms Zahorecz by Recorded Delivery and secure email on 15 April 2024.
7. In the circumstances, the Committee was satisfied that it was appropriate to consider today's appeal in the absence of either party and on the papers.

Summary of the Legal Framework

8. The General Dental Council (Continuing Professional Development) (Dentists and Dental Care Professionals) Rules 2017 ('the CPD Rules') set out the CPD requirements placed on DCP registrants as of 1 August 2018, and the steps that the GDC shall take in respect of registrants' compliance and non-compliance with those requirements.
9. The current CPD Rules came into force on 1 January 2018 and took effect in respect of dental care professionals on 1 August 2018.
10. In accordance with Rule 1, a 'CPD cycle' means, in respect of a dental care professional, a period of five years beginning on 1 August following the date the dental care professional is first registered and each subsequent period of five years. A 'CPD year' means, in respect of a dental care professional, a period of 12 months beginning on 1 August in any calendar year.
11. Rule 2(5)(b) of the CPD Rules requires dental care professionals to undertake at least 10 hours of CPD during each period of two consecutive CPD years (including any such two-year period which spans over more than one CPD cycle).

12. Rule 3 provides the requirement that all registrants must maintain a written record of all CPD that the practitioner plans to undertake and has undertaken during the CPD cycle. Rule 3 also sets out what the written record must include.
13. Rule 4 of the CPD Rules states that for each CPD year, a practitioner must submit to the Registrar a statement which confirms the number of hours of CPD undertaken during that corresponding year or, if the practitioner has not undertaken any CPD in that CPD year, confirmation that no CPD has been undertaken. The practitioner must also confirm in this statement that they have kept a CPD record, that the CPD undertaken (where applicable) was relevant to the practitioner's field of practice and declare the information in their statement is full and accurate. This statement must be completed within 28 days of the end of that CPD year.
14. Rules 6 and 7 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.
15. Rule 8 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 and/or other related obligations under the relevant Rules.

Summary of the factual background

16. Ms Zahorecz first registered with the GDC as a dental care professional, with the title dental nurse, on 8 April 2016. Therefore, in accordance with Rule 1 as set out above, Ms Zahorecz's current CPD cycle began on 1 August 2021 and will end on 31 July 2026.
17. On 14 June 2023, the GDC sent an email reminder to Ms Zahorecz's registered email address. This reminder notified Ms Zahorecz that her CPD year was coming to an end and reminded her that she was required to submit her CPD statement, detailing how many CPD hours she had completed during that year, by 28 August 2023. Ms Zahorecz was advised that if she did not submit a compliant statement before the deadline, her registration may be put at risk. In addition, she was reminded of the requirement to complete a minimum of 10 hours of CPD during each period of two consecutive years.
18. On 14 June 2023, the GDC also sent Ms Zahorecz an Annual Renewal Notice letter by post to her registered address. The Annual Renewal Notice is designed to remind registrants that their registration with the GDC is due for renewal, of the need to pay their annual retention fee and make their indemnity declaration and of the need to make their CPD statement. Ms Zahorecz was also reminded in this notice that she was required to submit her CPD statement by 28 August 2023. The requirement to complete at least 10 hours of CPD over each two-year period was reiterated.

19. Between 6 July 2023 and 25 August 2023, three email reminders were sent to Ms Zahorecz's registered email address and three SMS reminders were sent to her registered mobile number to inform her to complete her CPD statement.
20. On 28 August 2023, Ms Zahorecz submitted an annual CPD statement for the 2022 - 2023 CPD year, declaring that she had completed three verifiable CPD hours.
21. On 28 August 2023, the GDC received from Ms Zahorecz a webform enquiry in which she asked if her CPD declaration had been received by the GDC. Ms Zahorecz also asked for the GDC to let her know that if there were any other declarations to be made.
22. On 31 August 2023, the GDC responded to Ms Zahorecz's webform enquiry via email. Within the email, the GDC informed Ms Zahorecz that her record had been reviewed and her CPD statement was non-compliant because she had declared three verifiable CPD hours for the 2021 - 2022 CPD year and three verifiable CPD hours for the 2022 - 2023 year, which was not enough to meet the requirement to complete 10 hours over two consecutive years. Ms Zahorecz was informed that the deadline to "*amend/submit*" her CPD statement was 28 August 2023, which had passed and as such, she should await further communication from the GDC.
23. On 9 October 2023, the GDC sent a notice under Rule 6 to Ms Zahorecz by recorded delivery to her registered address. The notice stated that, although Ms Zahorecz had submitted a CPD statement to the GDC, she had not declared enough hours to meet the requirement to complete a minimum of 10 hours of CPD over two consecutive years. It was noted that she had submitted an annual CPD statement of three verifiable hours for the 2021 - 2022 CPD year and an annual CPD statement of three verifiable hours for the 2022 - 2023 CPD year. The notice stated that if Ms Zahorecz wished to retain her registration, she should submit her CPD record to the Registrar by 6 November 2023 in order to demonstrate that she had met the requirement. Ms Zahorecz was informed that if the GDC did not receive a response to the notice or if her response was unsatisfactory, she may be erased from the dental care professionals register. On 10 October 2023, a copy of the notice was sent via email to Ms Zahorecz's registered email address.
24. On 6 November 2023, the GDC received from Ms Zahorecz, by post, a cover letter dated 28 October 2023 accompanied by a number of CPD documents. Within the cover letter, Ms Zahorecz explained that between 1 August 2021 and 31 July 2023, she experienced "*personal issues that [are] still affecting [her] personal life*". Ms Zahorecz further stated that, since 31 July, she had undertaken "*10.5 + 3 hours of CPD*" and that she "*enrolled [on] the Orthodontic Dental Nursing course 2 years ago*". She advised that completion of the course had also been affected by her personal issues. Ms Zahorecz asked the GDC to reconsider her case and keep her on the register.

25. On 8 November 2023, the GDC sent Ms Zahorecz a letter by email acknowledging receipt of her CPD evidence. This letter explained to Ms Zahorecz that her evidence demonstrated she had not completed any hours of verifiable CPD during the 2021 - 2022 CPD year and one hour of verifiable CPD during the 2022 - 2023 CPD year. Ms Zahorecz was informed that this was insufficient to meet the requirement to complete a minimum of 10 hours of verifiable CPD for every consecutive two-year period. In addition, it was noted that Ms Zahorecz had submitted a number of CPD certificates which were dated outside or the relevant period or did not meet the Enhanced CPD criteria and therefore, could not be counted for the purposes of the assessment. Ms Zahorecz was informed that, as she had failed to meet her CPD requirements, she had put her registration at risk. She was advised to await a decision from the GDC.
26. On 10 November 2023, the GDC received an email from Ms Zahorecz in which she stated that two further CPD certificates were attached. The GDC responded to Ms Zahorecz via email, informing her that the deadline to provide her CPD evidence was 6 November 2023, which had passed. Ms Zahorecz was advised to await further communication from the GDC.
27. On 20 November 2023, the GDC sent a Rule 8 notice to Ms Zahorecz's registered address by recorded delivery. This notice confirmed that Ms Zahorecz had failed to provide a compliant CPD record demonstrating that she had met the minimum requirement for the period 1 August 2021 to 31 July 2023 and that as a result, the Registrar had made the decision to remove her name from the dental care professionals register for non-compliance with the Rules. Ms Zahorecz was notified that unless an appeal was submitted, the Registrar's decision would take effect on 5 January 2024. On 21 November 2023, a copy of the notice was sent via email to Ms Zahorecz's registered email address.

The Appeal

28. On 19 December 2023, the GDC received a Notice of Appeal (NOA) via post from Ms Zahorecz which confirmed that she wished to appeal against the decision to remove her from the dental care professionals register. Within the NOA, Ms Zahorecz reiterated the matters outlined within her letter dated 28 October 2023. In addition, she noted that since 31 July 2023 she had completed over 10 hours of CPD courses. Ms Zahorecz asked the GDC to accept her sincere apology for not being able to provide the required number of CPD hours, and to reconsider her case and keep her on the register.
29. On 9 January 2024, Ms Zahorecz's CPD evidence was assessed by the GDC and she was deemed to be non-compliant with her CPD requirements on the basis that she had six verifiable CPD hours outstanding for the period 1 August 2021 to 31 July 2023. It was noted that some of the CPD certificates provided by Ms Zahorecz in support of her appeal could not be counted for the purposes of the assessment as they were duplicates of those provided previously, for courses completed outside of the relevant period or did not contain learning aims, outcomes, or objectives. It was confirmed that,

as of 9 January 2024, Ms Zahorecz had completed four verifiable CPD hours between 1 August 2021 and 31 July 2023.

Submissions

30. In the GDC's written submissions, the Registrar's position was set out as follows:

"It is the Registrar's position that Ms Zahorecz is non-compliant with the CPD requirements because she has failed to provide a CPD record demonstrating that she has completed the minimum requirement for the period 1 August 2021 to 31 July 2023, in accordance with Rule 2.

It is submitted by the Registrar that Ms Zahorecz was reminded on numerous occasions of the need to complete her CPD hours and of the requirement to complete 10 verifiable CPD hours in each two-year period, as set out in detail above.

As of 9 January 2024, Ms Zahorecz had completed four verifiable CPD hours between 1 August 2021 and 31 July 2023, which clearly breaches the requirement that dental care professionals submit evidence that they have completed a minimum of 10 verifiable CPD hours in each two-year period. As set out above, there is no power to waive this provision.

The Registrar acknowledges and is sympathetic to the fact that Ms Zahorecz experienced personal difficulties during the relevant period. However, it is submitted that Rule 2 states that in completing the minimum number of hours, a practitioner who is not a temporary registrant must undertake at least 10 hours of CPD during each period of two consecutive CPD years. Therefore, Ms Zahorecz was required to complete at least 10 hours of CPD notwithstanding her personal circumstances.

The Registrar also acknowledges Ms Zahorecz's submission that she has completed over 10 hours of CPD since 31 July 2023. However, it is submitted any CPD completed outside of the relevant period cannot be taken into account for the purposes of assessing a registrant's compliance with their CPD requirements. As such, any CPD hours completed by Ms Zahorecz after 31 July 2023 is irrelevant for the purposes of this appeal.

It is open to Ms Zahorecz to apply to restore her registration at any time following this appeal."

Committee's decision and reasons on the appeal

31. The Committee had regard to the documentary evidence provided today and took account of the written representations made by the GDC and Ms Zahorecz's Notice of Appeal. It accepted the advice of the Legal Adviser. The Committee also took note

of the GDC's *Guidance on the Registrar's Discretion to Erase for CPD Non-Compliance* (February 2024).

32. The first consideration for the Committee was whether Ms Zahorecz had complied with her obligations under the CPD Rules by demonstrating completion of at least 10 hours of verifiable CPD within the period 1 August 2021 to 31 July 2023.
33. Having carefully reviewed the CPD records which Ms Zahorecz submitted, the Committee determined that she demonstrates having completed four verifiable hours of CPD within the period of 1 August 2021 to 31 July 2023. This was consistent with the Registrar's assessment that Ms Zahorecz was six hours short in the relevant period. Therefore, the Committee determined that Ms Zahorecz is not compliant with her statutory obligations under the CPD Rules.
34. The Committee was satisfied that the required notices had been duly served on Ms Zahorecz in accordance with the Rules and that the correct procedure leading to the Registrar's erasure decision had been followed. The remaining consideration for the Committee was therefore whether the Registrar's decision to erase should be allowed to stand.
35. 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 patient safety and in maintaining wider public confidence in the profession in order to meet the overarching objective of the GDC under Section 1 of the Act.
36. The Committee noted that Ms Zahorecz has claimed that she was affected by personal issues during the relevant period. However, the Committee has seen no further information or evidence in support of this. The Committee also noted that Ms Zahorecz has stated that she has completed over 10 hours of CPD after 31 July 2023. However, the Committee noted that these could not be considered as they fell outside the relevant CPD period.
37. Therefore, having regard to all the circumstances, the Committee determined that there were no grounds on which this appeal should be allowed. Ms Zahorecz had failed to demonstrate that she was compliant with her obligations under the CPD Rules. The decision of the Registrar to erase her name was reached correctly in accordance with the procedural requirements of the Rules and following repeated reminders to Ms Zahorecz of her obligations under the CPD Rules and the importance of compliance in order to maintain continued registration.
38. This appeal was accordingly dismissed.
39. Unless Ms Zahorecz 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 Ms

Zahorecz to apply for the restoration of her registration if she meets the CPD and other requirements for restoration.

40. This will be confirmed to Ms Zahorecz in writing.

41. That concludes this determination.