

PRIVATE HEARING

Registration Appeals Committee CPD Appeal

10 October 2024

Name: SIDHU, William

Registration number: 52313

General Dental Council: Selina Jones, Counsel.

Registrant: Present.

Outcome: Appeal accepted

Committee members: Andy Waite (Chair) (Lay)
Amita Janda-Dhami (Dentist)
Stephanie Carter (DCP)

Legal adviser: Melanie Swinnerton

Committee Secretary: Paul Carson

Mr Sidhu,

1. You appeal against the decision of the registrar to erase your name from the Register for non-compliance with your Continuing Professional Development (CPD) requirement.
2. The Committee met remotely today using Microsoft Teams to hear your appeal. Part of the hearing was held in private to protect your right to a private and family life. However, this determination shall be announced entirely in public without discussing the detail of the personal mitigating circumstances to which you referred.

Background

3. You first registered with the General Dental Council (GDC) as a dentist on 22 September 1978. Your relevant CPD cycle ran from 1 January 2019 to 31 December 2023. In accordance with the General Dental Council (Continuing Professional Development) (Dentists and Dental Care Professionals) Rules 2017 (the “Rules”), you were required to complete a minimum of 100 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 January to 31 December) within that cycle (Rule 2(5)(b)). This included any two-year period which spanned 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, you were required to keep a log of all the CPD that you planned to undertake and had undertaken during the CPD cycle. Rule 4(1) required you to submit an annual statement of your 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)) (“End of Cycle CPD statement”).
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 2A 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 26 October 2023 and 26 January 2024, the GDC sent you various automated reminders by email, post and SMS message relating to the annual renewal of your registration and your End of Cycle CPD statement, which you were required to submit by 28 January 2024. You were reminded of the number of CPD hours which you would need to demonstrate in respect of your CPD cycle, including the need to demonstrate at least 10 hours within each consecutive two CPD year period. You were also informed of your ability to apply by 31 December 2023 for a period of grace of up to 56 days to complete any shortfall in your CPD hours.

10. On 26 February 2024, the GDC wrote to you under Rule 6 of the Rules to state:

“Our records indicate that your CPD statement is non-compliant because you did not declare enough hours to meet the requirement for this cycle as set out in the Enhanced CPD (2018) scheme.

*Your statement is non-compliant because between **1 January 2019 and 31 December 2023**, you needed to complete a minimum of **100 hours of verifiable CPD**. You were given the deadline of **28 January 2024** to declare your hours to us. You did not declare enough hours to meet your requirement by this deadline.*

By not complying with the CPD requirements, you have put your registration at risk.”

11. You wrote to the GDC by email on 24 March 2024 and attached a copy of your Personal Development Plan and a record of the CPD you had completed between 1 January 2019 to 31 December 2023.

12. A Senior Registrations Officer at the GDC responded on 25 March 2024 to acknowledge receipt of your CPD record evidence and stated that this would be assessed. There is also a record of a telephone call made by you to the GDC’s Customer Advice Information Team on the same day. However, no record of what was said during that call was before the Committee, beyond a note made by the GDC that the call was categorised as an enquiry regarding “CPD-Cycle info” and that you were “...Provided with email add”.

13. On 11 April 2024, the GDC wrote to you under Rule 8 of the Rules to inform you of the registrar’s decision “to remove your name from the Dentists Register for non-compliance with the General Dental Council’s CPD requirements”. The letter explained:

“...you have failed to provide a compliant CPD record demonstrating that you have met the minimum requirement for the period 1 January 2019 – 31 December 2023. As a result, the Registrar is not satisfied that you have complied with the rules.

Your evidence demonstrates that you have completed 75 hours of verifiable CPD between 1 January 2019 - 31 December 2023. This is not enough to meet your CPD requirements to complete a minimum of 100 hours of verifiable CPD for your CPD cycle.

Your CPD remains deficient because:

- You are outstanding 25 verifiable CPD hours.*
- 27 x Agilio certificates are dated outside of cycle years, therefore, not applicable to this assessment.*

- *Email from Safe Haven training does not meet the enhanced CPD criteria:
No learning content, aims, objectives*

We have not been provided with any evidence of exceptional personal circumstances which may have prevented you completing your CPD as required.

The Registrar has therefore made the decision to remove your name from the Dentists Register for non-compliance with the General Dental Council's CPD requirement."

The appeal

14. On 6 May 2024, you lodged your notice of appeal against the registrar's decision. You did not dispute the shortfall in your CPD hours and that you are therefore non-compliant with your CPD requirement. You instead set out personal mitigating factors, including bereavements in your extended family and a period of illness impacting on your ability to attend to your CPD in 2023.
15. You also referred to the adverse impact erasure would have on patients at your single-handed practice, whose continuity of care would be severely affected. You stated that you would be willing to accept a penalty as an alternative to erasure, such as a fine or a requirement to complete increased hours of CPD over the next 12 months.
16. The registrar's position in response to your appeal remains that there is a shortfall of 25 hours and that your name should therefore be erased for non-compliance with the CPD requirement, noting that it will be open to you to then apply to restore your registration.
17. Today the Committee heard the submissions made on behalf of the registrar by Ms Jones and those which you made on your own behalf. The Committee also heard oral evidence from you regarding your personal mitigating circumstances and the impact erasure would have on you, your patients and the staff whom you employ at your practice.

Decision

18. The Committee accepted the advice of the Legal Adviser.
19. The first consideration for the Committee was whether you had complied with your CPD requirement by completing at least 100 hours of CPD over your five year CPD cycle ending 31 December 2023. Having carefully reviewed the CPD records which you submitted, the Committee determined (which is not in dispute) that they demonstrate only 75 hours of CPD completed during that cycle, meaning that there is therefore a shortfall of 25 hours. Accordingly, the Committee determined that you are not compliant with your statutory CPD requirement, as you do not demonstrate that you had completed at least 100 hours of CPD within the period 1 January 2019 until 31 December 2023. The Committee noted that the CPD hours which you have since completed would have made up for the shortfall but these cannot be taken into consideration, as the hours were completed outside of the CPD cycle and you had made no application by 31 December 2023 for a period of grace of up to 56 days within which to complete those hours.

20. Accordingly, the Committee was satisfied that the registrar was entitled to decide under the Rules that your name should be erased for non-compliance with the CPD requirements.
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. The Committee recognised that the permissive terms of Rule 8 of the Rules 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.
22. 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"), albeit the non-prescriptive terms of that guidance were of limited assistance in the present case.
23. The Committee was mindful that, although it considered the Guidance, it has a responsibility to balance fairness to the GDC with fairness to you, and to reach a decision that is proportionate, taking into account the particular circumstances of this case.
24. In considering your appeal, the Committee had regard to the over-arching objective of the GDC, namely public protection, maintaining public confidence and promoting and maintaining proper professional standards and conduct. The Committee had regard to your personal mitigating circumstances and to your otherwise long unblemished career. You have 46 years' experience of clinical practice with no other history of non-compliance with your CPD requirement and with no fitness to practise concerns the Committee is aware of. You are a skilled and highly experienced practitioner.
25. The shortfall of 25 hours is a significant breach of the CPD requirement. However, the breach does not suggest that you lack the clinical skills and competence to treat patients safely when your recent CPD activity and extensive clinical experience are examined in context. You told the Committee that you had completed in excess of 25 hours of CPD earlier this year to address the shortfall in hours. Had you applied for a period of grace, any of those qualifying hours could have been applied to your CPD cycle ending 31 December 2023. In practical terms, it is possible that it is your failure to have applied for a period of grace that has resulted in the registrar's erasure decision.
26. In the Committee's judgment, allowing the erasure to take effect would be a disproportionate response in all the circumstances. There was no evidence before the Committee of a dismissive or cavalier attitude from you in respect of your CPD requirement and no history of any other breach of your CPD requirement over a long practising career.
27. The Committee was satisfied that allowing you to remain on the Register would not put patients at risk or otherwise undermine public confidence in the profession. Erasure would interrupt the continuity of care for your patients, as you are the only dentist at the practice, and might also affect the job security of the practice staff whom you employ. It would also deprive the wider public of an experienced and otherwise competent dentist

at a time when such dentists are very much needed. The Committee determined that erasure would be neither proportionate nor in the public interest.

28. Accordingly, the Committee allows the appeal and quashes the decision of the registrar that your name should be erased from the Register.

29. That concludes this determination.