

Date: 25/11/2016

Medical Practitioner's name: Dr Alaa ABDEL-RAHMAN

GMC reference number: 6137400

Primary medical qualification: MB BCh 1993 University of Minya

Type of case

Outcome on impairment

Review - Misconduct

Not Impaired

Summary of outcome

Suspension revoked

Tribunal:

Medical Tribunal Member (Chair)	Dr Patricia Moultrie
Lay Tribunal Member:	Mrs Ronno Griffiths
Medical Tribunal Member:	Dr Aparna Prasanna

Legal Assessor	Ms Julia Oakford
Tribunal Clerk:	Ms Angela Carney

Attendance and Representation:

Medical Practitioner:	Present and not represented
Medical Practitioner's Representative:	N/A
GMC Representative:	Ms Katie Jones, Counsel

Attendance of Press / Public

The hearing was all heard in public.

Record of Determinations – Medical Practitioners Tribunal

Determination on Impairment – 25 November 2016

Dr Abdel Rahman:

Background

1. You were referred to a Fitness to Practise Tribunal which concluded in August 2016. The background to the case is as follows.
2. Between 2 and 9 May 2013, you were employed as a locum consultant in breast surgery by the United Lincolnshire Hospitals NHS Trust. You commenced your employment at Pilgrim Hospital in Boston, Lincolnshire in 2009 as a speciality doctor in breast surgery before being offered the post of locum consultant. You were also appointed as the clinical and educational supervisor, responsible for teaching junior foundation doctors and students from the medical schools of Leicester and Nottingham universities.
3. The August 2016 Tribunal found the following facts proved:
 - “1. Between 2 May 2013 and 9 May 2013 you were employed as a locum consultant in breast surgery by the United Lincolnshire Hospitals NHS Trust.
Admitted and found proved
 - 2d. On 2 May 2013 you performed an abdominal examination on Miss A, a medical student. You asked Miss A to lift her top up to her chin;
Admitted and found proved
 - 3b. On 9 May 2013 you performed a breast examination on Miss A.
 - i. conducted the examination in Miss A’s bedroom;
Admitted and found proved
 - ii. asked Mr B to leave the room during the examination;
Admitted and found proved
 - iv. conducted the examination without an appropriate chaperone being present;
Admitted and found proved
 - vi. asked Miss A to undress her upper body;
As amended, found proved

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viii. told Miss A to be professional and not to be shy, or words to that effect;

Found proved

x. failed to leave the room whilst Miss A undressed when requested to do so;

Found proved

xiii. replied “yes” to Miss A, when asked by Miss A whether she really needed to remove her bra;

Admitted and found proved

xv. conducted the examination when you were not fully clothed;

Found proved

3c. On 9 May 2013 performed an abdominal and/or hernia examination on Miss A. You:

xi. asked Miss A “do you know what a labia majora in females is called in males”, or words to that effect;

Admitted and found proved

xiii. asked Miss A “do you know what a clitoris is in males?” or words to that effect;

Admitted and found proved”

4. The August 2016 Tribunal did not accept your assertions that you were aware of professional boundaries and that you had maintained these boundaries throughout your dealings with the students. It found that your approach to interacting with colleagues of all grades was one of over-familiarity. It also found that your behaviour was wholly inappropriate behaviour by a senior member of medical staff and clinical tutor towards two young medical students. It was that Tribunal’s opinion that you were extremely foolish and naïve in your interactions with Miss A and Mr B.

5. That Tribunal found that you failed to recognise that professional boundaries were being breached. Further you placed yourself in a situation where you were demonstrating on a female student, in her bedroom, how to undertake a breast examination. You totally failed to recognise how your personal and professional integrity could be compromised. That Tribunal accepted there was no obligation to offer a chaperone in the context of a teaching session. However it concluded that it would have been prudent for you to have done so, given the nature of the examinations you demonstrated.

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6. The August 2016 Tribunal found that your understanding of professional boundaries was woefully lacking and you should have never put yourself in a situation where your professional conduct was open to question. Further it found that as a clinical tutor you should have realised that all clinical tutorial sessions, however informal, should be conducted within a clinical setting. The Tribunal has concluded that, whilst your behaviour was foolish, naïve and entirely unprofessional, it did not amount to behaviour which was sexually motivated. The August 2016 Tribunal was in no doubt that your behaviour was wholly inappropriate and that it constituted misconduct which was serious.

7. The August 2016 Tribunal determined to impose a three month suspension on your registration and it was satisfied that a period of suspension was the appropriate and proportionate sanction which would send a signal to you, the profession, and the public that your behaviour was wholly unacceptable and would not be tolerated. It bore in mind that it should not restrict the registration of an otherwise competent doctor for any longer than is necessary, whilst marking appropriately the seriousness of his misconduct. That Tribunal was mindful that there was no evidence that you are anything other than a competent breast surgeon and that, prior to the events in question, you have had an unblemished career.

8. That Tribunal found that the three month suspension was necessary to reflect the seriousness of your misconduct and the potential damage to public confidence in, and the reputation of, the profession. It was also of the view that this period was proportionate and would give you the opportunity to reflect on your misconduct and the impact it may have had on the medical students under your tutelage, your colleagues and the public in general.

9. The August 2016 Tribunal stated that this Tribunal may be assisted by the following:

- evidence of the learning and development activities you have undertaken to improve your understanding of professional boundaries; and
- evidence of how you have embedded your learning and development into your clinical practice, in your roles as a breast surgeon and as a clinical tutor.

Documentary evidence

10. The Tribunal has noted the following documentary evidence:

- Maintaining Professional Boundaries certificate dated 31 August 2016 to 2 September 2016 (3 day course)

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- 'The fourth day' maintaining professional boundaries certificate of attendance dated 27 October 2016 (1 day course)
- A report from your mentor Mr A, Consultant Breast and General Surgeon, dated 13 November 2016
- Positive testimonials from your professional colleagues
- Your reflective statement
- Confirmation of your full accreditation as an Educational Supervisor letter dated 20 April 2016, from Mr B, Director of Medical Education, United Lincolnshire Hospitals NHS Trust
- 360 Feedback document dated 3 March 2016
- Your curriculum Vitae
- Your Personal Development Plan (Feedback Questionnaire)

Your oral evidence

11. Your hearing commenced in June 2016 but went part heard. You said that you agreed with the Tribunal's decision on facts handed down in June 2016 and started your remediation by booking the Professional Boundaries course before the hearing concluded in August 2016. You said that you accepted the Tribunal's decision.

12. You reminded this Tribunal that there were no findings by the August 2016 Tribunal in regard to patient safety concerns. You also stated that the August 2016 Tribunal found that your behaviour was not sexually motivated and stressed that it was a single incident in 2013, albeit a serious one. You submitted that the lack of any repetition of similar behaviour and any further complaints demonstrates that you have insight. You also told the Tribunal that as a result of the learning you have changed your behaviour.

13. You said that following the Tribunal's decision you attended three courses on professional boundaries, one of them being a three day course and as a result realised that that professional boundaries were not just for patients. You said that the course was 'eye opening' for you. You said that you read all the material before attending the course and you were willing to learn and to absorb everything about professional boundaries. You said that you wished to attend the course because you wanted to undertake the learning rather than to provide evidence for the Tribunal. You stated that you learned that you needed to change your behaviour, which you have done. Since the incident in 2013 you have continued to teach and practise medicine until your suspension and there has been no repetition of your behaviour and no complaints. You stated that you had changed your behaviour towards students before you completed the professional boundaries course.

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14. You explained that you have learnt that you had a lack of professional boundaries as in the past you tried to 'demolish' the power of seniority but have learnt that you had to maintain professional boundaries with colleagues at all levels as well as with patients. You said that you now recognise that at the time of the incident you were overworked and may have been looking for reassurance and compliments that you were a good tutor, which in part led to your behaviour. You also recognised that it is important to listen to colleagues including students and to ensure that they have the opportunity to say if they are not comfortable with things you suggest.

15. You said that you had learnt that self-disclosure was a weakness which you have addressed. You explained that you used to talk to colleagues about your family life. You said that you learned that unnecessary disclosure was your weakness which you have addressed and that you implemented this immediately with your colleagues. You said that as a result of this, during meetings with colleagues, you recognised that your attitude had changed. You said that you were open the GMC's investigation and also discussed with colleagues how they could assist with your remediation.

16. You said at the last hearing you were questioned about the impact your behaviour had on others. You told the Tribunal that, at that time you said maybe Miss A would not be happy. You said that since the professional boundaries course you are now aware that this could have caused Miss A to lose confidence and have a lack of trust in senior colleagues.

17. You said that from the course enabled you to begin to produce a Personal Development plan which concentrated on how to implement your learning points and weaknesses. These included inadequate attention to the detail of questions asked by others. You also told the Tribunal that when you discovered that the Trust did not have any documentation on professional boundaries you discussed it with your Clinical Director. You said that your mentor, Mr A, suggested that you develop a questionnaire form in order for your colleagues to give you feedback, which you will also complete yourself, as part of your Personal Development plan

18. You said that Mr A assisted you in developing the feedback questionnaire which would be completed by colleagues every four weeks. It is your intention to continue to meet with Mr A every four week for the next six months, in order to discuss professional boundaries or any other issues you may encounter in your clinical life. You explained that there were about thirty five learning points on the professional boundaries course, which were mainly around patients. Mr A suggested that you choose the most relevant points and concentrate on your weak points. You explained the questionnaire was designed as an audit, in order to keep track on your progress.

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19. You drew the Tribunal's attention to your reflective statement which you said that you had written yourself following the professional boundaries courses. You stated that you wish to implement these changes in your clinical practice and a further suspension would serve no purpose and would hinder your remediation.

20. When asked why it has taken you so long to attend a professional boundaries course you told the Tribunal that you approached your Medical Defence Union but were unable to attend any courses before the start of your fitness to practise hearing, as all of the courses were fully booked. You said that your previous hearing was in June 2016 and there were no courses available until after that time. You stressed that the delay was not due to lack of insight, as you were keen to attend a course. You also explained that before your hearing in August 2016 you regretted the incident and expressed remorse.

21. You said your journey of remediation started in 2013 following the complaint on 13 May 2013. You said that initially you were in shock and started to cry. You immediately realised that something had gone wrong, that you had made the wrong decision, which was monumental.

Submissions

22. Ms Jones, on behalf of the GMC, told the Tribunal that the GMC's position is that your fitness to practise remains impaired. She stated that the GMC accepted that you have continued to make progress in remediating your behaviour and your reflections are encouraging. She stated that your reflections are very recent. She submitted that, at this stage, there is not enough evidence to demonstrate that you have full insight and that your fitness to practise is not impaired. However, it is a matter for the Tribunal exercising its independent judgement

23. You told the Tribunal that you were disappointed with the GMC's view that your fitness to practise remains impaired as you are doing your best. You submitted that your fitness to practise is not impaired by reason of misconduct.

The Tribunal's Decision

24. The Tribunal has given careful consideration to all of the evidence that has been adduced and has also taken account of your submissions and those of Ms Jones, on behalf of the GMC.

25. The Tribunal has exercised its own judgement in considering the matter of impairment. Throughout its deliberations, the Tribunal has borne in mind the overarching objectives, which are:

- a. to protect, promote and maintain the health, safety and wellbeing of the public

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b. to maintain public confidence in the profession

c. to promote and maintain proper professional standards and conduct for members of that profession.

26. The Tribunal found you to be open, honest and frank. It found you to be a reliable and credible witness.

27. The Tribunal noted that your current testimonials from professional colleagues describe you as a good doctor, who has gained the trust of your referees. The Tribunal has also taken into account the 360 feedback from March 2016, a period when you were under investigation by the GMC. It noted that all the feedback from your colleagues was positive.

28. The Tribunal noted that Mr B, Director of Medical Education, United Lincolnshire Hospitals NHS Trust was content to confirm your full accreditation as an Educational Supervisor, in 20 April 2016, despite the GMC's investigation.

29. The Tribunal took account of the questionnaire you have provided as part of your personal development plan. The Tribunal found that there were weaknesses in the questionnaire as the only tool for a personal development plan. However, the Tribunal was encouraged by your oral evidence when you stated that this would enable you to monitor your progress and your behaviour towards colleagues. The Tribunal found this to be a relevant tool which contributes to your remediation.

30. The previous Tribunal concluded that your behaviour was foolish, naïve and entirely unprofessional. The Tribunal noted that there has been no further or repetition of the misconduct since May 2013. The Tribunal considers that you have gained sufficient insight into your behaviour and it is satisfied the likelihood of any repetition in the future is low.

31. In all the circumstances of this case including the evidence you have provided, in particular your oral evidence, the Tribunal has determined that your fitness to practise is not impaired by reason of your misconduct pursuant to Section 35C(2)(a) of the Medical Act 1983, as amended.

Determination to Revoke the Current Suspension - 25 November 2016

Dr Abdel Rahman:

1. The Tribunal has noted that the suspension imposed on your registration by the Tribunal in August 2016 is due to expire on 18 December 2016. The Tribunal has the power under Section 35d Sub-section 5d of the Medical Act to revoke the suspension with immediate effect or to allow the suspension to expire on 18 December 2016.

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Submissions

2. Ms Jones submitted that the GMC is neutral on whether the Tribunal should revoke your suspension with immediate effect.
3. You submitted that the Tribunal should revoke the suspension with immediate effect as you would like to return to clinical practice.

The Tribunal's Decision

4. The Tribunal has borne in mind that the August 2016 Tribunal determined to suspend your registration for a period of three months in order to reflect the seriousness of your misconduct and the potential damage to public confidence in, and the reputation of, the profession.
5. The Tribunal is mindful that there is no evidence that you are anything other than a competent breast surgeon and that, prior to the finding of misconduct, you have had an unblemished career. It has borne in mind that it should not restrict the registration of an otherwise competent doctor for any longer than is necessary, whilst marking appropriately the seriousness of his misconduct.
6. Given the Tribunal's findings today and the reasoning contained in its determination on impairment the Tribunal is satisfied that the public interest has been served by the period of suspension already served. Accordingly, the Tribunal has determined to revoke the current suspension on your registration, with immediate effect.

That concludes this case.

Confirmed

Date 25 November 2016

Dr Patricia Moultrie, Chair