

Dates: 13/03/2017 – 15/03/2017

Medical Practitioner's name: Dr Babatunde ARANMOLATE

GMC reference number: 5186837

Primary medical qualification: MB BS 1992 Ogun State University

Type of case **Outcome on impairment**
Restoration following disciplinary erasure

Summary of outcome

Restoration application granted. Restore to Medical Register.

Tribunal:

Medical Tribunal Member (Chair)	Dr Andy Cohen
Lay Tribunal Member:	Mr Keith Moore
Medical Tribunal Member:	Dr Jill Edwards

Legal Assessor:	Ms Julia Oakford
Tribunal Clerk:	Mrs Sam Montgomery

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Ms Catherine Stock, Counsel
GMC Representative:	Mr Ciaran Rankin, Counsel

Attendance of Press / Public

The hearing was all heard in public.

Determination on Application for Restoration - 15/03/2017

Dr Aranmolate:

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1. You have applied to the GMC for the restoration of your name to the Medical Register (the Register). The Tribunal has considered your application in accordance with the provisions set out in Section 41 of the Medical Act 1983 (as amended) and Rule 24 of the General Medical Council (Fitness to Practise) Rules 2004 (as amended).
2. The Tribunal has taken account of all the information before it, including the Restoration Application Form completed by you, dated 25 July 2016 and the documents you have provided in support of your application. It has also considered the submissions made by Mr Rankin, on behalf of the GMC and those made by Ms Stock, on your behalf.

Background

3. This Tribunal has noted the circumstances which led to a Fitness to Practise Panel in 2009 (the 2009 Panel) determining that your name should be erased from the Medical Register. These included your working whilst suspended, inaccurate completion of application forms, sexually motivated behaviour towards three women in the course of your work, inaccurate completion of three GMC Employer Details Forms, inaccurate information on a CV and the writing of a prescription for a family member using a prescription pad retained from your previous employment.
4. The 2009 Panel took account of the previous GMC findings against you for dishonest conduct in 1999 and the warning you were given. That Panel found fifteen separate findings of dishonesty over a period of seven years. Further, that your conduct had been persistent and repeated and included several serious departures from the GMC's guidance "Good Medical Practice". It was also found that you had behaved inappropriately towards three women, causing them all real and significant distress. Whilst the 2009 Panel noted that your clinical skills had not been called into question it considered that there was evidence of actual patient harm, given your behaviour towards the three women and the effect upon them. The 2009 Panel also found that the false entries in your CV may have led to you obtaining work which you were not competent to do.

First application for restoration - October 2014

5. In October 2014 a Fitness to Practise Panel (the 2014 Panel) considered your first application for restoration. The 2014 Panel considered there was limited evidence that you had fully reflected on each of the findings of the 2009 Panel or gained full insight into the professional implications and public interest impact of your repeated and persistent dishonesty, and inappropriate conduct towards three women. Further, it considered that the evidence you provided in relation to your Continuing Professional Development (CPD) was limited.

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6. The 2014 Panel concluded that, in the absence of evidence of full insight, public confidence in the profession would be seriously undermined if your application were granted. Your application for restoration of your name to the Medical Register was therefore refused.

Second application for restoration - September 2015

7. In September 2015 a Fitness to Practise Tribunal (the 2015 Panel) considered your second application for restoration. That Panel was persuaded that you had grasped the seriousness of your actions and the detrimental impact of them on the profession and their effect on public confidence in the profession. It also considered that you understood the gravity of the findings made against you, that you were remorseful, had gained insight and were unlikely to repeat your behaviour. Further, it was satisfied that you had presented sufficient evidence of the steps you had taken to rehabilitate yourself and to attempt to keep your medical knowledge up-to-date.

8. In the circumstances, the 2015 Panel was satisfied that your previous misconduct would not preclude you now from restoration to the Medical Register. In that Panel's judgement, the public interest could be served by making provision for your return to unrestricted practice.

9. However, the 2015 Panel noted that you had been out of medical practice for over six years and was concerned by the associated deskilling that may arise. The 2015 Panel therefore determined to adjourn to allow time for a GMC assessment of your professional performance to be carried out.

Reconvened hearing - April 2016

10. In April 2016 the 2015 Panel reconvened as a Medical Practitioners Tribunal (the 2016 Tribunal).

11. The 2016 Tribunal had regard to the GMC Performance Assessment (the Assessment) report, dated 22 March 2016. It was noted that the assessment of your professional performance took place on 22 and 23 February 2016 and was conducted using the tools of a Knowledge Test, Objective Structured Clinical Examination (OSCE), Simulated Surgery and Case Based Discussion. It was not possible to conduct Third Party Interviews or a Medical Records Review.

12. Your performance was assessed under eight categories and with reference to the professional standards set out in the GMC publication Good Medical Practice. Your performance was judged to be "Unacceptable" in the following categories:

- Assessment,
- Clinical Management,

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- Relationships with Patients.
13. Your performance was judged to be a “Cause for Concern” in the category of:
- Maintaining Professional Performance.
14. The Assessment Team (the Team) was unable to make a judgement in the following categories, given your long period out of medical practice:
- Operative/Technical Skills,
 - Record Keeping,
 - Safety and Quality,
 - Working with Colleagues
15. In the ‘Tests of Competence’ your scores were below the range of scores that would be expected of a reference group. You scored 61.67% in the Knowledge Test which was below the score of 63.94% achieved by the reference group. In the Objective Structured Clinical Examination (OSCE) your scores were below the 25th centile in 10 out of 12 stations. In the Simulated Surgery your scores were below the 25th centile in 9 out of 10 stations.
16. The Team was of the opinion that the standard of your professional performance had been deficient and that you were fit to practise only on a limited basis. The Team noted that you had not been in clinical practice in the UK since 2007, and had not been in any clinical practice since 2009. It judged your performance to have been deficient in the context of your fitness to practise as a doctor who had completed two years GP specialist training. It also noted the areas of unacceptable performance, which included examples of where your clinical management could have put patients at risk or was inadequate. The Team concluded that a further one year training (which would complete your three year programme you had commenced in 2004) would be an inadequate period of training to remediate the unacceptable performance identified in the Assessment.
17. The Team recommended the following practice restrictions to ensure patient safety:
1. You must initially restrict your practice to that of an FY2;
 2. This must be with the addition of direct supervision from a Clinical Supervisor for a period of at least three months;
 3. After the first three months, review of the level of supervision should be at the discretion of the Clinical Supervisor;
 4. Eligibility for progression to specialist training should be dependent on a satisfactory report from the Clinical Supervisor.

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18. The Team noted the steps you had already taken, in the previous two years, to re-orientate yourself with current clinical General Practice and were of the opinion that, given sufficient support and supervision, you had the potential to pursue a career in medicine in the UK.

19. The 2016 Tribunal considered that your absence from medical practice, for a substantial period, may well have contributed to your poor performance during the Assessment. Whilst that Tribunal was encouraged by the steps you had taken to keep your knowledge up-to-date and re-orientate yourself with current clinical General Practice, it was not satisfied that you had presented evidence to show that you had subsequently remedied the deficiencies highlighted.

20. The 2016 Tribunal determined that there was insufficient evidence to enable it to conclude that you were safe to be restored to full unrestricted practice. Further, that Tribunal was of the opinion that, given the outcome of the Assessment and concerns regarding patient safety, public confidence in the profession would be undermined if your name was restored to the Medical Register.

21. Accordingly, the 2016 Tribunal determined to refuse your application for restoration to the Medical Register.

Evidence before this Tribunal

22. The Tribunal has been provided with documentary evidence in support of your application. It also granted an unopposed application for the following witnesses, who were called on your behalf, to give evidence (by telephone):

- Dr A, General Practitioner at the Headley Drive Surgery,
- Mrs B.

23. The Tribunal also heard evidence from you.

24. You explained the circumstances which led to your erasure. You told the Tribunal that you have reflected on your past behaviour and the impact it has had upon you, patients and the profession. You expressed your regret and apologised for your misconduct. You referred to the remediation you have undertaken and the insight you have developed.

25. You also referred to your past unsuccessful applications for restoration; your understanding of the reasons given for the decisions made and the positive direction given by those Panels as to the remediation you needed to undertake. You set out the courses you have undertaken including medical ethics, confidentiality and maintaining boundaries. You explained that this had assisted you in understanding how to apply proper conduct in practice, to reflect on your past behaviour and

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appreciate boundaries. You also referred to your online CPD, more than 250 hours over a two year period, and the clinical observership, which has been ongoing since November 2014, which has assisted you in updating your clinical skills and practice.

26. You referred to the Assessment you undertook in February 2016. You told the Tribunal that it was a fair assessment but explained the difficulties you experienced due to nerves and lack of 'hands-on practice'. You stated that you accept the comments made by the Assessment Team that you should be restricted to FY2 level. You explained the options open to you for a return to GP training and supervised practice. You told the tribunal that you recognise the benefit of being guided back into practice by undertaking an FY2 role, with mandatory direct supervision for six months.

27. You told the Tribunal that you deeply understand the GMC position on your past behaviour and attitude. You stated that this is a lesson you will not forget and that you have taken 'long strides' to remediate the deficiencies identified during the Assessment and keep your medical knowledge up-to-date. You expressed your wish to return to practice and obtain the hands-on experience you know you are lacking. You explained that your position, since March 2016, has improved as you have gained knowledge and experience by undertaking online courses and the observership. You told the Tribunal that you would be content to re-take the Assessment, if the Tribunal deemed it necessary, but recognise that you still lack the hands-on practice.

28. In response to Tribunal questions, you explained that you used the outcome of the Assessment to formulate your CPD. You recognised that, during the Assessment, you were not applying National Institute for Clinical Excellence (NICE) Guidelines in relation to the cases presented. You explained that you have since taken scenarios from your clinical observership and researched NICE guidelines on how cases should be managed. You have also undertaken targeted BMJ online courses to address some of the deficiencies identified.

29. You assured the Tribunal that you would follow the 'roadmap' you have provided for a return to practice. This would entail a FY2 training post involving direct supervision for six months. You stated that your fear of appearing before a MPTS Tribunal is enough to keep you on this path.

30. The Tribunal found you to be a credible and honest witness who has demonstrated contrition, insight and remorse.

31. Mrs B provided a written testimonial, dated 2 March 2017. In her oral evidence she referred to the financial and personal difficulties you have experienced. She also referred to the steps you have taken to keep your medical knowledge up-to-date and the determination you have demonstrated. Mrs B stated that the experience has made you a better and stronger person.

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32. The Tribunal considered that Mrs B was a credible witness who provided corroborative evidence of your social rehabilitation and the impact these matters have had upon you. She also gave compelling evidence of the determination you have maintained over a long period of time in addressing the concerns identified by each Panel.

33. Dr A provided a written testimonial, dated 3 March 2017. In his oral evidence he informed the Tribunal that you commenced your observership in November 2014 and this ceased in December 2016, due to your personal circumstances. He outlined the procedure, in that you would be present during the consultation and that a case based discussion would take place following the consultation.

34. Dr A confirmed that you had provided him with a copy of the Performance Assessment. He stated that, having observed you, he does not consider you to be a risk to patients. In his opinion you are very competent and had learnt from your past misconduct.

35. Dr A stated that he would be willing take you on as a FY2, under supervision, given the contrition and the professionalism you have since shown. He confirmed that he has been a FY2 trainer since August 2016 and stated that if direct supervision was required, in your case, then the surgery could accommodate this.

36. The Tribunal considered that Dr A was a helpful witness. He confirmed that you had undertaken the clinical observation for a considerable period which gave you significant exposure to patients. Further, he was able to corroborate your evidence regarding the case based discussions which took place in relation to patient care and management.

Submissions

37. Mr Rankin, on behalf of the GMC, opposed your application. He submitted that it is of concern that your application for restoration was made in July 2016, within only a few months of the previous Tribunal's determination. He questioned whether your application was made as a consequence of your difficult financial circumstances. Whilst Mr Rankin conceded that you have made much progress in terms of insight, reflection and have undertaken online CPD and an observership, he questioned whether you had had the time to remediate the concerns identified in the Assessment regarding the risk to patient safety. He also suggested that a further Performance Assessment may be appropriate. Mr Rankin submitted that it is the GMC's position that nothing has changed since the previous hearing when your practice was judged to be deficient. Further, that the supervision, which could be put in place at the surgery, is not robust enough.

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38. Mr Rankin submitted that, on the basis of the documents presented and whilst understanding the progress made, you have not demonstrated that you are fit to return to unrestricted practice. Therefore your application for restoration should be dismissed.

39. Ms Stock, on your behalf submitted that you have done all you can to remediate and keep up-to-date. She asked the Tribunal to consider a number of questions when considering your application:

- Have you demonstrated that you have insight?
- What more could you have possibly done to remediate and rehabilitate yourself?
- Is there any likelihood of any repetition of your misconduct?
- What more could you do to refresh your knowledge and clinical skills without being allowed to have hands-on experience?
- Are you likely to return to an unsupervised post and put at risk your licence, your reputation and your livelihood?

40. Ms Stock submitted that you have clearly demonstrated insight into your past misconduct and have 'kept going'. You have reflected and undertaken targeted remediation and CPD. She referred to the recommendation of the Assessment Team, that you should practice at the level of FY2, and submitted that whilst the Tribunal cannot impose this upon you, you have chosen this path. You have accepted the need for your practice to be supervised in order to ensure public safety.

41. Mr Stock submitted that you have paid for your past behaviour and have done everything that was asked of you by the previous Tribunal. She submitted that the Tribunal may consider that a further Assessment would raise the same issues regarding clinical management, given that you have not had the opportunity to gain hands-on experience, and that you have done all you can to remediate. She rebutted Mr Rankin's suggestion that your application for restoration was financially based. Ms Stock submitted that you have more than demonstrated that you are fit to practise and as such your application for restoration should be granted.

Legal Advice

42. The Tribunal accepted the advice of the Legal Assessor that an applicant is not to be restored unless in the Tribunal's judgement they are fit to return to unrestricted medical practice. In particular the Tribunal is entitled to have regard to the circumstances which led to erasure, the determination of previous panels, insight into past behaviour and steps taken to keep medical knowledge and skills up-to-date.

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43. The Legal Assessor advised the Tribunal that the burden is on you, to satisfy the Tribunal, on the balance of probabilities that you are fit to practise and be restored to the Register.

44. The Legal Assessor also reminded the Tribunal of the overarching objective of protecting the public, which includes protecting the health, safety and wellbeing of the public, maintaining public confidence in the profession, and promoting and maintaining proper professional standards and conduct for the members of the profession.

Tribunal's Decision

45. In reaching its decision in respect of your application, the Tribunal has given careful consideration to all the circumstances of your case, including the following:

- The circumstances which led to erasure
- Reasons given by the 2009 Panel for the decision to direct erasure
- Whether you have any insight into the matters that led to erasure
- What you have done since your name was erased from the Medical Register
- Steps you have taken to keep your medical knowledge and skills up to date and the steps you have taken to rehabilitate yourself
- The determinations provided detailing your previous unsuccessful applications for restoration.

46. The Tribunal considers that the misconduct, for which you were erased, was very serious. However, it accepts that the 2015 Panel/2016 Tribunal was of the view that you had remediated the concerns. It also noted that there had been no evidence of further misconduct, that you were remorseful for your actions and it was considered that you were unlikely to repeat your behaviour. This Tribunal has heard nothing to deviate from that position. To the contrary, the Tribunal found you to be a credible and honest witness who has demonstrated contrition, insight and remorse. It is satisfied, on the basis of your evidence, that you have maintained a professional approach to your remediation; that you have continued to reflect on your misconduct and that you understand the significance of your past behaviour. The Tribunal was particularly impressed as to how you have applied the knowledge, you have gained by attending courses, in practice. Further, you have maintained your involvement in community projects and the church in order to demonstrate further social rehabilitation.

47. The Tribunal went on to consider the performance issues raised by the 2016 Assessment and the conclusion reached that the standard of your professional performance had been deficient and that you were fit to practise only on a limited basis. Further, it had regard to the decision of the 2016 Tribunal that 'it was not satisfied that you had presented evidence to show that you had subsequently

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remedied the deficiencies highlighted’ but that ‘given sufficient support and supervision, you had the potential to pursue a career in medicine in the UK.’

48. This Tribunal considers that you have presented substantial evidence of the further efforts you have made to address the performance concerns highlighted, including a large volume of targeted CPD and an extensive reflective log of cases you have observed during your further nine months of clinical observation. You have undertaken extensive research into how you can fulfil your intended pathway back into GP training and supervised practice, should your application be successful.

49. The Tribunal considered whether to direct that you should undergo a further assessment of your performance in accordance with sub paragraph 24 (2) (g) of the Rules. However, it determined that this was of limited value given that the Assessment Team in 2016 had already concluded that you could return to practice at the level of supervised FY2.

50. The Tribunal is satisfied that you have demonstrated your determination to do what is required to achieve a return to practice and that you have done all you can to remediate. It considers that you are at a stage in your remediation where you will be unable to improve your performance without gaining hands-on experience, in a supervised practice.

51. Whilst the Tribunal cannot impose a condition that you return to practice in an FY2 post, with supervision, it is reassured by the determined approach you have taken in respect of previous Panel decisions and that you have consistently followed the advice given. The Tribunal is satisfied that the likelihood of you straying from your intended pathway is low.

52. The Tribunal is further assured by the statutory obligation placed upon you in accordance with Section 44D(2) of the Medical Act 1983 under the heading of ‘Approved practice settings’, which states:

‘Unless the Registrar otherwise directs in relation to a particular person, a person whose name is restored to the register after the coming into force of this section shall, before his first revalidation in accordance with Part 3A above after his name is restored to the register, practise medicine in the United Kingdom only in a practice setting-

(a) where he is subject to a governance system that includes, but is not limited to, provision for appropriate supervision and appraisal arrangements or assessments; and

(b) which is, or which is of a type which is, for the time being recognised by the General Council, either generally or in relation to him or to practitioners of his class, as being acceptable for a practitioner who is newly restored to the register.’

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53. The Tribunal also had regard to the GMC guidance document entitled 'Guidance for doctors on restoration following erasure by a fitness to practise panel', in particular paragraph 19 which states:

'Doctors returning to full registration after a prolonged period out of UK practice must practise only in an approved practice setting. If your application for restoration is successful it is likely that you will be required to practise in an approved practice setting until your first revalidation after restoration...'

54. The Tribunal is satisfied that you understand the implication of the guidance and recognise that any departure from the statutory objective may result in further action by the GMC.

55. In all the circumstances, the Tribunal has determined that the public interest in the promotion and maintenance of public confidence in the medical profession, and in declaring and upholding proper standards of conduct, has been satisfied by the sanctions imposed by the 2009 Panel. The Tribunal considered that the public interest would now best be served by allowing you to return to medical practice.

56. The Tribunal has therefore determined to direct that your name be restored to the Medical Register, and that, in accordance with Section 41(7) of the Act and paragraph 3(1)(c) of The General Medical Council (Licence to Practise and Revalidation) Regulations Order of Council 2012, a licence to practise be 'restored'.

57. That concludes the case.

Confirmed

Date 15 March 2017

Dr Andy Cohen, Chair