Record of Determinations – Medical Practitioners Tribunal

PUBLIC RECORD

Dates: 19/04/2017 – 25/04/2017
Medical Practitioner’s name: Dr Kwame SOMUAH-BOATENG
GMC reference number: 6087851
Primary medical qualification: MB ChB 2002 University of Science and Technology
Type of case: New - Misconduct
Outcome on impairment: Consideration of impairment not reached

Summary of outcome
Adjourned to a new tribunal.

Tribunal:

<table>
<thead>
<tr>
<th>Lay Tribunal Member (Chair)</th>
<th>Ms Lisa Smith</th>
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<tr>
<td>Lay Tribunal Member:</td>
<td>Mr John Ennis</td>
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<td>Medical Tribunal Member:</td>
<td>Dr Dominic Blackie</td>
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<tr>
<th>Legal Assessor:</th>
<th>Ms Moira Ramage</th>
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<td>Tribunal Clerk:</td>
<td>Dr Joshua Kirby and Ms Sarah Ryan</td>
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Attendance and Representation:

<table>
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<tr>
<th>Medical Practitioner:</th>
<th>Present and not represented</th>
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<tbody>
<tr>
<td>Medical Practitioner’s Representative:</td>
<td>N/A</td>
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<td></td>
<td>Ms Hannah Noyce, Counsel, instructed by the MPTS under Rule 36(5), cross-examined Patient A on behalf of Dr Somuah-Boateng on 20 April 2017.</td>
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<tr>
<td>GMC Representative:</td>
<td>Ms Natasha Tahta, Counsel</td>
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Allegation and Findings of Fact

That being registered under the Medical Act 1983 (as amended):

1. On or around 12 July 2012 you carried out a consultation with Patient A during her stay in Accident & Emergency department of Croydon University Hospital NHS Trust.

2. In or around July 2012 you obtained Patient A’s personal details from her hospital records, namely her:
   a. mobile telephone number;
   b. home address.

3. Between July 2012 and February 2013, you:
   a. entered into an emotional relationship with Patient A;
   b. entered into a sexual relationship with Patient A;
   c. provided medication to Patient A as set out in Schedule 1 and failed to:
      i. enter the medication into her medical records;
      ii. issue a prescription;
      iii. notify Patient A’s GP or treating consultant.

4. During your relationship with Patient A you told her that sex with you would be good for her medical condition or words to that effect.

5. During your relationship with Patient A you told her that you were discussing her care with her treating Consultant, your colleague, Dr B (‘Dr B’) and you:
   a. received an email from Patient A on or around 3 December 2012 which contained medical information intended for Dr B;
   b. failed to pass this information on to Dr B.

6. Your actions at paragraphs 2 a and b, 3 a and b and 4, were sexually motivated.

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct.
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Attendance of Press / Public
The tribunal agreed, in accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004, that the press and public be excluded from those parts of the hearing where matters under consideration were deemed confidential. It did so to protect the anonymity of Patient A.

Determination on the Tribunal’s Request for Further Information -
24/04/2017

Dr Somuah-Boateng:

1. Paragraph 2 of the allegation relates to you having obtained Patient A’s personal details from her medical records, namely her mobile phone number and her home address. Patient A’s evidence was that following her attendance at the Trust in July 2012 you contacted her by telephone. In your witness statement, you state that it was Patient A who initiated contact with you by telephone. In addition, paragraph 6 of the allegation says that your actions in doing so were sexually motivated.

2. The agreed bundle of documentary evidence contains a number of telephone records relating to your contact with Patient A from September 2012 onwards. In his evidence to the tribunal, retired Detective Constable Mr C told the tribunal that when conducting its criminal investigation the Metropolitan Police had sought telephone records from July 2012, when you and Patient A first met. He also told the tribunal that he had selected from those records the material he thought would be relevant to the GMC to form evidence in this case. The tribunal was therefore satisfied that telephone records relating to your contact with Patient A exist other than those it has in front of it today. Consequently, the tribunal asked Ms Tahta to explore with the GMC whether or not those other records could be made available for it to consider.

Submissions

3. Ms Tahta told the tribunal that since the hearing adjourned on Friday 21 April 2017, the GMC have made several efforts to contact the relevant department of the Metropolitan Police in order to ascertain whether or not phone records dating back to July 2012 are still available and, if so, how long it would take to obtain them. She told the tribunal that, despite the efforts made by the GMC, thus far it has been unable to contact the relevant officers in the Metropolitan Police. Ms Tahta submitted that the telephone records had never been part of the GMC’s case and that they had been included in the documentary evidence at your request. She went on to submit that the obtaining of the telephone records would unduly delay the progress of the case and that the tribunal should proceed without them. She concluded by submitting that should the tribunal determine that it requires the records her instructing solicitor at the GMC would endeavour to continue contacting the police to that effect.
In your witness statement, you state that it was Patient A who initiated contact with you by telephone. You submitted that you were uncertain as to whether or not the contents of the telephone records, if they exist and are made available, would assist the tribunal. In any event, you submitted that you did not want the progress of the hearing to be unduly delayed whilst the telephone records were sought from the police. You concluded by submitting that it is a matter for the tribunal to determine as to whether or not they should be sought.

The Tribunal’s Decision

Having heard and borne in mind the submissions from both parties and accepted the advice from the legal assessor, the tribunal determined that the telephone records relating to your contact with Patient A from your initial contact with her in July 2012 should be sought.

The tribunal was mindful of the fact that there are significant aspects of the evidence where there are two opposing accounts of events in this case, one from Patient A and one from you. It was satisfied that, were the telephone records obtained, they could have an important impact on the credibility or otherwise of both Patient A and you as witnesses and, consequently, upon the credibility and reliability of the accounts of events in relation to the first contact between you. In the light of Mr C’s evidence, the tribunal was also satisfied that it does not have the entirety of the telephone records from the relevant time period at its disposal. It also noted that Mr C selected material to be sent to the GMC and it was concerned that he may have done so without knowing the specific allegation you face in these proceedings. In all the circumstances, the tribunal determined that, despite any time delay involved, it would be in the interests of fairness for the telephone records to be sought and put before it as soon as is reasonably practicable.

Determination on the Recusal of the Tribunal - 25/04/2017

Dr Somuah-Boateng:

1. During the afternoon of Friday 21 April 2017 the tribunal was informed that the contents of an article in the Daily Mail had caused you distress to the extent that you felt that you might be unable to continue that day. When the tribunal explored this with you, you indicated that notwithstanding the article you would rather proceed.

2. On Monday 24 April 2017 both Mr Ennis and Dr Blackie informed the Chair of this hearing that they had seen coverage of this case in the press over the weekend. Mr Ennis did not read the coverage, Dr Blackie did. Having reflected on that information overnight, on Tuesday 25 April 2017 the Chair informed both you and Ms Tahta of that fact and invited submissions as to whether or not that information caused either party to feel that in the circumstances justice would not be seen to be done should this tribunal continue its consideration of the case.
3. The submissions of both parties remain a matter of record and have not been rehearsed in full in this determination. In summary, both you and Ms Tahta submitted that the tribunal should not recuse itself and should continue its consideration of the case.

4. During the tribunal’s in camera discussions a matter arose which led the tribunal to conclude that the fairness of these proceedings would more likely than not be jeopardised were it to continue with the case. The tribunal was mindful that a decision to recuse itself would have an impact on both the GMC and you. However, in the circumstances, it determined that it was in the interests of justice for it to recuse itself. Therefore this hearing will now adjourn to a new tribunal under Rule 29 and will be relisted for a future date in due course. The GMC will shortly approach the MPTS to arrange fresh dates in conjunction with both parties.

Confirmed
Date 25 April 2017

Ms Lisa Smith, Chair
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Schedule 1

Tramadol
Ciprofloxacin
Trimethoprim