

Date: 03/10/2016

Medical Practitioner's name: Dr Yasser NOOMAN AHMED

GMC reference number: 4746597

Primary medical qualification: MB ChB 1989 University of Alexandria

Type of case

Review - Misconduct

Outcome on impairment

Not Impaired

Summary of outcome

Suspension revoked

Tribunal:

Medical Tribunal Member (Chair)	Mr Gurpeet Singh
Lay Tribunal Member:	Mr Miran Uddin
Medical Tribunal Member:	Dr Paul Diprose

Legal Assessor:	Mrs Judith Walker
Tribunal Clerk:	Mrs Jo Johnson

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Marios Lambis, Counsel, instructed by Hempsons Solicitors
GMC Representative:	Mr Trevor Archer, Counsel

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.

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Determination on Impairment - 03/10/2016

Dr Nooman Ahmed:

Background

1. Your case was first considered by a Fitness to Practise panel which concluded in September 2015 (2015 panel). This tribunal does not intend to rehearse the details of that hearing in full, suffice to say the 2015 panel found that Miss A was a seventeen year old student who attended your clinic for work experience at your own invitation. On 25 October 2011, you offered to demonstrate on Miss A how a chest examination should be performed, to which she agreed. The 2015 panel found that your overall conduct with respect to Miss A was sexually motivated and inappropriate. The 2015 panel further stated that your actions in relation to the examination of Miss A were a clear breach of trust. It concluded that you had demonstrated no insight or remediation, as evidenced by your denial of your actions. The 2015 panel found that your fitness to practise was impaired by reason of your misconduct.

2. The 2015 panel determined to suspend your registration for a period of 12 months. It accepted that whilst your behaviour represented a serious breach of Good Medical Practice, there had been no repetition, it was a single incident, four years earlier and was an aberration which was highly unlikely to be repeated. The 2015 panel also noted the positive testimonial evidence relating to your attitude in your personal and professional life.

3. The 2015 panel concluded that it was necessary to impose the maximum period of suspension of twelve months in order to mark the fact that your actions were sexually motivated and that you abused your position of trust. They determined that a lesser period of suspension would not be sufficient to protect the public interest. They determined that a review hearing was necessary in order to allow you to demonstrate to a review panel that you had developed insight.

4. The 2015 panel determined that a panel reviewing your case would be assisted by the following:

- current testimonial evidence
- evidence of your reflections on the findings of the 2015 panel
- evidence that you have kept your knowledge and skills up to date
- any other evidence that you may wish to put before the panel reviewing your case.

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Today's review

5. This tribunal has met to review your case. It has considered, under Rule 22(1)(f) of the Rules, whether your fitness to practise is currently impaired by reason of your misconduct. In so doing, it has taken into account all of the evidence before it and the submissions made by Mr Archer, Counsel, on behalf of the GMC and those made by Mr Lambis, Counsel on your behalf.

Documentary Evidence

6. The tribunal has received and read the following documentary evidence:

- Hearing Bundle and Addenda
- Schedule of CPD since 23 September 2015 with attached certificates/information
- Extract from Egyptian Medical Syndicate Regulations in Arabic, with English translation and certificate of authentication
- DBS certificated dated 23 December 2015
- Letter from Professor A, Head of Department of Critical Care Medicine, Alexandria Hospital dated 4 September 2016
- Further letter from Professor A
- Letter from B, CEO of Nabda Care dated 4 September 2016
- Letter from C, Patients Case Officer at Nabda Care dated 4 September 2016
- Letter from D, Operations Manager at Nabda Care dated 4 September 2016
- Reference from Miss E, Head of Nursing at Alexandria University Hospitals
- Letter from Dr F, Assistant Lecturer and Specialist in Critical Care Medicine at Alexandria University Hospital dated 3 September 2016
- Letter from Dr G, ENT Consultant dated 4 September 2016
- Letter from Mr H, Consultant ENT and Head and Neck Surgeon dated 15 July 2016
- Email from Mr I dated 15 July 2016
- Your reflections on the findings of the 2015 panel
- Certificate of Good Standing from Egypt Medical Syndicate dated 21 September 2016
- Certificate of attendance at Introduction to Professional Boundaries Course dated 22 September 2016.

7. The tribunal noted the various certificates/information you have submitted in relation to your continuing professional development. This included a training course

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on ethical conduct attended in October 2015 and an introduction to professional boundaries course which you attended on 22 September 2016.

8. In his letter of 4 September 2016, Professor A confirmed that since June 2006 you had worked as a lecturer in the Critical Care Medicine Department at Alexandria University Hospital in Egypt. Professor A stated that he was aware of the outcome of the 2015 panel hearing, nevertheless he invited you to resume this role in October 2015. Professor A stated that your contribution in the unit was highly appreciated by your fellow consultants, junior doctors, nurses, students and patients. He noted that the unit had 8 beds and that you were the Lead Consultant on ward rounds on a 1 in 4 rota, plus once monthly on call for all ICU units. He stated that you taught post graduate critical care medicine students and were a supervisor for examinations. You also lead a campaign on Infection Control. Professor A confirmed that you regularly attended departmental scientific and management meetings.

9. In his letter of 4 September 2016, B CEO at Nabda Care which is a “leading company in digital health” confirmed that they had appointed you in 2015 as an advisor on the content of their website. B stated that you had informed them of your one year suspension and provided them with the details of your case. B stated that since November 2015 you were working closely in the company together with a team of 30 employees, male and female and that you had treated all of the staff with great respect and professionalism.

10. In a reference dated 4 September 2016, Miss E, Head of Nursing at Alexandria University Hospital confirmed that she had worked with you at Alexandria University Hospital since October 2015 until September 2016. Miss E stated that she and all the nursing staff had enjoyed working with you and you had treated them with respect and support. She went on to state that they found you to be a reliable and trustworthy person.

11. Further testimonials have been received (as set out above) which attest to your professionalism and respect for colleagues and patients.

12. In your reflective statement dated 14 September 2016 you stated that since your suspension in September 2015 you have been reading and thinking thoroughly about the panel findings and its decision over and over again. You stated that you felt “deeply feel sorry and ashamed of the effects on Miss A, her family, her friend and on the medical profession and community.” Further you stated that “The tribunal’s decision motivated me to make sure that I am doing my job very carefully taking all the required precautions to protect myself and others. For example making sure that a chaperone is present during any examination, making sure that people

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working with me understand what I mean clearly, and that I am not sending confusing messages or saying jokes based on my culture as they might be misunderstood by people of a different culture..” Finally you stated that “I will always feel deeply sorry for Miss A and I hope that she will one day be able to recover from the distress she felt..”

GMC Submissions

13. Mr Archer submitted that the tribunal will want to consider today if you have gained insight and fully remediated your conduct. He referred the tribunal to sections of your reflective statement and the references which you have submitted. It was his submission that it is a matter for the tribunal to determine whether your fitness to practise is currently impaired.

Defence Submissions

14. Mr Lambis submitted that your fitness to practise is no longer impaired. He referred the tribunal to the 2015 panel decision where they stated that “There is no evidence that you have departed from Good Medical Practice before or since the incident. Your misconduct was a short, single event, and was an aberration in a lengthy career... an aberration which is highly unlikely to be repeated, and therefore your behaviour on 25 October 2011 is not fundamentally incompatible with continued registration.”

15. Mr Lambis told the tribunal that your case was unusual in that none of the barristers or panel members involved had ever encountered a case where mid-hearing, the regulator, previously having failed to refer the matter to the police, then decided to do so, just after the complainant’s evidence. Mr Lambis submitted that the significance of this cannot be exaggerated or underestimated. It meant for you and the complainant Miss A that there was no closure for a considerable period of time, and resulted in a delay of two years before your case was completed.

16. Mr Lambis submitted that the tribunal should ask itself what more can you do. Further, he submitted that all the people who had written testimonials for you had received a copy of the 2015 panel determination. In terms of your reflective statement he submitted that you have accepted the findings of the 2015 panel. He reminded the tribunal that the previous panel had determined that the incident with Miss A was an isolated incident and since then you have been working and interacting with lots of different people who have not raised any complaints about you, but have referred to you as professional and respectful.

17. Mr Lambis told the tribunal that you have been back in the United Kingdom since September 2016 and this is where you would like to work. He submitted that when the tribunal considers all of the evidence before it today, your fitness to practise is no longer impaired.

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Tribunal Decision

18. The tribunal is aware of its statutory over-arching objective which is to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for the medical profession.

19. The tribunal has considered the Sanctions guidance (July 2016) to which it was referred and the paragraphs which relate to review hearings and in particular paragraph 157 which states:

“It is important that no doctor is allowed to resume unrestricted practice following a period of conditional registration or suspension unless the tribunal considers that they are safe to do so.”

And paragraph 158 which states:

“... A review hearing is therefore likely to be necessary, so that the tribunal can consider whether the doctor has shown all of the following (by producing objective evidence):

- a they fully appreciate the gravity of the offence
- b they have not reoffended
- c they have maintained their skills and knowledge
- d patients will not be placed at risk by resumption of practice or by the imposition of conditional registration.”

20. In determining whether your fitness to practise is impaired by reason of your misconduct the tribunal is satisfied that you have provided all of the information requested by the 2015 panel.

21. Whilst your misconduct was serious, involving a fundamental breach of Good Medical Practice, the tribunal noted that these events took place nearly five years ago. It has received positive testimonial evidence which attests to your professionalism and respect for colleagues and patients, it also noted that you have kept your knowledge and skills up to date. In your reflective statement you have acknowledged the genuine distress caused to Miss A. You explained that you have now changed your working practice and you have accepted the findings of the 2015 panel. The tribunal concurs with the 2015 panel that this was an aberration which is highly unlikely to be repeated and it considers that you have now demonstrated

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sufficient insight into the events which occurred in 2011. Also, the tribunal received evidence which indicates that you are a competent and respected clinician. The tribunal bore in mind the public interest in such a doctor being allowed to resume practice.

22. The tribunal has determined that the public interest and maintenance of public confidence in the profession has been met by your registration being suspended. The tribunal has therefore determined that your fitness to practise is no longer impaired by reason of your misconduct, pursuant to Section 35C(2)(1)(a) of the Medical Act 1983, as amended and, in accordance with Section 35D(5)(d), the suspension currently imposed on your registration is revoked for the remainder of the current period.

23. In determining to revoke the suspension with immediate effect, the tribunal determined that it is unnecessary for your suspension to remain in place until the 24 October 2016 when it is due to expire. In reaching this determination, the tribunal considered the slight reduction of the period of suspension would not lessen the impact of the decision of the 2015 panel as to the gravity and inappropriateness of your conduct towards Miss A.

24. This concludes your case.

Confirmed

Date 03 October 2016

Mr Gurpeet Singh, Chair