PUBLIC RECORD

Dates: 24/01/2022 - 28/01/2022

Medical Practitioner's name: Dr Adrian-George EFTIMIE

GMC reference number: 7551043

Primary medical qualification: Doctor-Medic 2009 Carol Davila University of Medicine & Pharmacy Bucharest - Faculty of Medicine

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Impaired

Summary of outcome

Suspension, 5 months.
Review hearing directed
Immediate order imposed

Tribunal:

Legally Qualified Chair	Ms Melissa Coutino
Lay Tribunal Member:	Mr Philip Brown
Medical Tribunal Member:	Dr Keith Dunnett

Tribunal Clerk:	Mr Francis Ekengwu

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Mark Ainsworth, Counsel, instructed by RLB Law
GMC Representative:	Mr Ian Brook, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.

Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) 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 members of that profession.

Determination on Facts and Impairment - 26/01/2022

1. Dr Eftimie started his primary medical qualification in 2009 and graduated in medicine in January 2016 from Carol Davila University of Medicine & Pharmacy Bucharest. Prior to the events which are the subject of the hearing, Dr Eftimie attained a training post in General Surgery in Bucharest. Dr Eftimie then completed his training and received the title of 'Specialist Doctor in General Surgery' and worked in this role for almost two years until December 2017 in Bucharest.

2. Dr Eftimie came to England in January 2018 and was employed at Pilgrim Hospital, Boston, ("the Hospital"). Dr Eftimie worked as a CT1 general surgery junior doctor and continued in this role until January 2021 when he resigned. At the time of the events with which this hearing is concerned Dr Eftimie was practising as a CT1 in General Surgery, a junior doctor grade.

3. The allegation that has led to Dr Eftimie's hearing relates to his involvement in the treatment of Patient A.

4. On 18 December 2018, Dr Eftimie was involved in the care of Patient A at the Hospital. Patient A was pronounced dead at 12.11 hours, but Dr Eftimie made a retrospective entry in Patient A's clinical record adjacent to a time of 10:31 and wrote a prescription for antibiotics with a time stamp of 10.45. It is alleged that the entries made by Dr Eftimie were deliberately and dishonestly designed to conceal the fact that he had not prescribed a dose of antibiotics to Patient A prior to their cardiac arrest.

The Allegation and the Doctor's Response

5. The Allegation made against Dr Eftimie is as follows:

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

1. On 18 December 2018 you were involved in the care of Patient A at Pilgrim Hospital in Boston and after Patient A was pronounced dead at 12.11hrs you wrote:

    a. "Needs IV Antibiotics ASAP" in the A/E Clinical Notes section of Patient A's Accident and Emergency Record ('the Record'), adjacent to a date and time stamp of "18/12/2018 10:31";

    b. a prescription for a STAT dose of IV Tazocin 4.5g, with a date and time stamp of "18/12/18 10:45", in the Assessment Proforma of the Record.

    Admitted and found proved

2. You knew that the entry described at paragraph:

    a. 1a had not been made at 10:31;

    b. 1b had not been made at 10:45.

    Admitted and found proved

3. Your actions as described at paragraphs 1a and 1b were designed to conceal the fact that you had not prescribed a STAT dose of antibiotics to Patient A prior to their cardiac arrest.

    Admitted and found proved

4. Your actions as described at paragraph:

    a. 1a were dishonest by reason of paragraphs 2a and 3;

    b. 1b were dishonest by reason of paragraphs 2b and 3.

    Admitted and found proved

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct.

The Admitted Facts

6. At the outset of these proceedings, through his counsel, Mr Mark Ainsworth, Dr Eftimie made admissions to all paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

Impairment

Documentary Evidence

7. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to:

- Witness statement of Dr B, dated 16 December 2019;
- Witness statement of Ms C, dated 7 February 2020;
- Witness statement of Ms D, dated 17 February 2020;
- Witness statement of Dr E, dated 23 February 2020;
- Witness statement of Dr F, dated 25 February 2020;
- Witness statement of Dr G, dated 4 August 2020;
- Email from Dr I to Dr B, attaching Dr Eftimie's initial written account, dated 9 January 2019;
- Preliminary Investigation Report, dated 21 December 2018;
- Letter from Dr F to Dr B, dated 10 January 2019, attaching:
    - Written account of Ms D, dated 18 December 2018;
    - Written account of Ms C, undated;
    - Accident and Emergency Record, dated 18 December 2018;
- Letter from Dr B to Dr Eftimie, dated 20 January 2019;
- Letter from Dr B to Dr I, dated 19 January 2019;
- Letter from Dr B to Dr Eftimie, dated 24 May 2019;
- Written account of Dr E, undated;
- Record of interview between Dr G and Dr F, dated 17 April 2019;
- Investigation Report, undated, including:
    - Appendix 10; record of interview between Dr G and Dr Eftimie, dated 25 February 2019;
- Dr Eftimie's witness statement dated 15 September 2021; and
- Dr Eftimie's reflective statement, dated 20 January 2022.

Evidence

8. The GMC did not call upon any of its witnesses in its case. Dr Eftimie gave oral evidence under affirmation at the hearing, via video link on 24 January 2022.

Submissions

On behalf of the GMC

9. Mr Brook submitted that the evidence Dr Eftimie gave during examination by Mr Ainsworth, cross-examination by Mr Brook and responses to questions from the Tribunal were inconsistent leading to questions about Dr Eftimie's credibility and insight.

10. Mr Brook submitted that Dr Eftimie, in hiding his own perceived wrongdoing, was seeking to deflect any blame and in effect pass that on to other members of the A&E team. His belief that he had not done enough for Patient A and that a prescription of antibiotics could have contributed to a better outcome for Patient A led him to seek to conceal this omission.

11. Mr Brook submitted that the retrospective false entries made by Dr Eftimie were an attempt to reapportion blame elsewhere and was serious.

12. Mr Brook submitted that Dr Eftimie was not more vulnerable than any other staff member and had acted out of self-preservation in dishonestly recording that he had prescribed the deceased Patient A with antibiotics.

13. Mr Brook submitted that Dr Eftimie breached the fundamental tenets of honesty and probity and as such this was misconduct. Mr Brook also submitted that Dr Eftimie had no insight with regard to the consequences of his action towards other staff members. Mr Brook further submitted that other staff members were upset as they felt that the blame for treatment not provided to a patient, who was deceased was being directed at them.

14. Mr Brook submitted that Dr Eftimie's practice should be found impaired on public policy grounds and to uphold public confidence in the profession.

On behalf of Dr Eftimie

15. Mr Ainsworth submitted he does not take issue with the submissions made by Mr Brook concerning the seriousness of Dr Eftimie's conduct. However, he stated that no evidence exists that Dr Eftimie sought to implicate other staff members. He further stated that Dr Eftimie continued to work at the hospital for two more years until he resigned.

16. Mr Ainsworth submitted that Dr Eftimie was impaired at the time of his misconduct but that he was not currently impaired. He stated that a public interest impairment was not

relevant to this case, where a doctor had a good track-record both before and post the incident, was well-regarded by colleagues and had been permitted to remain in post. He set out that more than three years had elapsed since the incident and that Dr Eftimie has had sufficient time to remediate. He said the evidence before the Tribunal shows that Dr Eftimie has reflected and fully remediated.

17. Mr Ainsworth submitted Dr Eftimie does not excuse his serious breach of Good Medical Practice ('GMP'). However, he indicated that Dr Eftimie was a young doctor who had trained in Romania and was under workplace stresses and pressures. Mr Ainsworth submitted that Dr Eftimie was away from his family who had remained in Romania and had been required to cope alone. He reminded the Tribunal that Dr Eftimie had attempted to contact a senior urologist for advice.

18. Mr Ainsworth submitted that it was not unusual for doctors to appear before the Medical Practitioners Tribunal Service ('MPTS'), having completed a number of courses purportedly supporting their insight and remediation in the weeks prior to attending their hearing. Mr Ainsworth said that this was not the case for Dr Eftimie and stated that he undertaken courses in good time, and completed the Maintaining Professional Ethics course fifteen months before his hearing.

19. Mr Ainsworth submitted that Dr Eftimie recognised the importance of maintaining public trust in the profession and submitted that Dr Eftimie has learned that he can and should be more honest about his vulnerability. He concluded his submissions regarding impairment by asking what more could the doctor be expected to do, to evidence his insight and remediate his admittedly unacceptable and dishonest previous conduct.

The Relevant Legal Principles

20. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal's judgement alone.

21. In approaching the decision, the Tribunal was mindful of the two stage process to be adopted: first whether the facts as found proved amounted to misconduct which was serious, and then whether the finding of that misconduct could lead to a finding of impairment.

22. The Tribunal must determine whether Dr Eftimie's fitness to practise is impaired today, taking into account his conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

23. Whilst there is no statutory definition of impairment, the Tribunal was assisted by the guidance provided by Dame Janet Smith in the Fifth Shipman Report, as adopted by the High Court in *CHRE v NMC and Paula Grant [2011] EWHC 297 Admin.* In particular, the Tribunal considered whether its findings of fact showed that Dr Eftimie's fitness to practise is impaired in the sense that he:

> *'a. Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
>
> *b. Has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
>
> *c. Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
>
> *d. Has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

24. The Tribunal has borne in mind the General Medical Council's statutory overarching objective, which is the protection of the public, and that this involves the pursuit of the following objectives:

- to protect, promote and maintain the health, safety and wellbeing of the public;
- to promote and maintain public confidence in the medical profession; and
- to promote and maintain proper professional standards and conduct for members of that profession.

The Tribunal's Determination on Impairment

Misconduct

25. The Tribunal first assessed Dr Eftimie's dishonest conduct. It reminded itself that Dr Eftimie had admitted to retrospectively making deliberately misleading notes. These were: adding a note to give the impression that Dr Eftimie had, at about 10:31, noted that antibiotics should be administered as soon as possible; and had prescribed these at 10:45.

26. The Tribunal also reminded itself that Dr Eftimie had admitted that his actions in making retrospective prescription entries were designed to conceal the fact that he had not prescribed antibiotics to Patient A prior to their cardiac arrest. The Tribunal also noted that Dr Eftimie had made false and dishonest retrospective entries in Patient A's clinical record. The Tribunal further noted that Dr Eftimie's actions were borne out of his fear and panic that he had failed to act in the best interests of Patient A in his own opinion, and that he should have prescribed antibiotics at an earlier stage.

27. The Tribunal was of the view that Dr Eftimie in dishonestly falsifying records to show he had prescribed medication for Patient A, had sought to divert any blame for Patient A's death that could be attributed to him; Dr Eftimie admitted as much, indicating that he thought that there was more that he 'should have done' for Patient A and that his entries dishonestly sought to cover this omission.

28. The Tribunal had regard to GMP paragraphs 1, 19, 21e and 65, which state:

> *1 Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.*
>
> *19 Document you make (including clinical records) to formally record your work must be clear, accurate and legible. You should make records at the same time as the events you are recording or as soon as possible afterwards.*
>
> *21e Clinical records should include: … who is making the record and when*
>
> *65 You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.*

29. The Tribunal concluded that Dr Eftimie's dishonest conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct. The Tribunal has found that, by his own admission, Dr Eftimie's primary concern was his own position. The Tribunal was in no doubt that his behaviour was very serious and that a finding of misconduct should be recorded.

30. The Tribunal having found that the facts found proved amounted to misconduct, went on to consider whether, as a result of that misconduct, Dr Eftimie's fitness to practise is currently impaired.

Impairment

31. The Tribunal went on to assess whether Dr Eftimie's fitness to practise is currently impaired by reason of his misconduct. It noted that dishonesty is generally hard to remediate but that it is not inevitable that every finding of dishonesty required a finding of impairment. It had regard to the character and extent of Dr Eftimie's dishonesty.

32. The Tribunal took into account that Dr Eftimie had attended a substantial ethics course, over three days, to help him to develop insight into his dishonesty and had provided a reflective statement, dated 20 January 2022. The Tribunal also regarded positively Dr Eftimie's willingness to give evidence under affirmation.

32. The Tribunal considered that the regulatory process has been a salutary lesson to Dr Eftimie. It considered the remorse he expressed during his oral evidence in this hearing was genuine, reflecting that he regretted the dishonest actions which had brought him before this Tribunal. The Tribunal also noted that Dr Eftimie's dishonesty was related to one clinical episode and that there was no evidence before it of dishonesty in relation to other clinical episodes before or since the events involving Patient A. The Tribunal had documentary evidence provided by the GMC which indicated that colleagues regarded Dr Eftimie highly and that the investigating officer was of the view that the risk of repetition was low: 'I strongly doubt he would ever repeat the same actions if he found himself in a similar situation'.

33. However the Tribunal noted that Dr Eftimie's conduct was not confined to one spontaneous act of dishonesty, in amending patient records on 18 December 2018, borne out of his fear that he had omitted to do something which he thought he should have done. Dr Eftimie had understood that creating false prescription entries was wrong but had gone on to try and deceive investigating colleagues for a number of months, despite being given numerous opportunities to explain fully his wrongdoing. His responses in the months that followed Patient A's death concerned him indicating only that his error had been an inadvertent error in recording the time of his entries. He even suggested that he had made these entries during resuscitation efforts in case these were effective, with a plan for Patient A to be provided with medication, albeit he now accepts this was a lie.

34. The Tribunal has considered the chronology of events and what Dr Eftimie had indicated at different times, (underlined):

18 December 2018	A junior doctor Dr E asked Dr Eftimie about the entry he had made about prescribing medication, shortly after Patient A's death in the early afternoon. Dr E had been asked if he had prescribed Patient A medication but showed that he had not. Dr Eftimie indicated that he had prescribed the medication and told A&E staff but forgotten to record it. Dr E said he was not allowed to look at the notes to prepare a coroner's referral because Dr Eftimie had raised a complaint about A&E staff.
18 December 2018	A member of A&E staff reported her concerns about the retrospective entry and a meeting took place. After being questioned by Dr F, a senior doctor, Dr Eftimie originally denied that he had made the entries. He then stated he had accidentally written the wrong time. A member of A&E staff present at the meeting recalled Dr F having a frank discussion with Dr Eftimie, in which Dr F questioned why he would have prescribed antibiotics to a dead patient as there would be no point. Dr Eftimie is recalled trying to "wriggle out of answering the question"; he kept stating he must have written the wrong time. It was said 'he did not openly admit to making retrospective errors'… but did apologise for getting the timing wrong. Dr F identified both a clinical issue and a professional conduct issue and referred this to his manager.
18 December 2018	Dr Eftimie sent an email to confirm that he had got the time incorrect when he had made his records. He indicated that he had made the entry prescribing medication while the A+E team performed resuscitation on the patient. The error made was that the time entry should have been 11.45 (approximately the time of the resuscitation) not 10.45.
15 January 2019	An Assistant Medical Director met with Dr Eftimie. Dr Eftimie maintained that it was only the timing that was wrong.

25 February 2019	In an interview Dr Eftimie told Dr G (the case investigator) that he just got the time wrong in error when making the prescription entry. He said that he would have had his phone with him. Dr G noted that he had made a very specific timing entry of 10.31am within his entry on the case notes. He suggested that the prescription would have been relevant had the resuscitation been successful.
17 April 2019	The investigating officer interviewed Dr F who confirmed that Dr Eftimie had accepted that his notes were retrospective and that his entries were 'accidental and a mistake.' She wrote a report in which she it was said: "He states that the error was in his time documentation."

35. The Tribunal noted that what Dr Eftimie suggested for several months following Patient A's death was that he had simply made an error in the time of his retrospective clinical record entries. It has evidence that Dr Eftimie even in the months following Patient A's death was unwilling or unable to acknowledge his dishonesty in deliberately writing the prescription after the patient's death and timing this to suggest it was before that.

36. It was put to Dr Eftimie in cross-examination by Mr Brook that his actions were not simply a mistake but a deliberate attempt to conceal his omission and shift any blame from him onto other staff colleagues. The Tribunal were disappointed that Dr Eftimie when asked about this blame being shifted onto other staff and colleagues, did not appear able to admit the consequence of his actions. Dr Eftimie in response indicated that at the time he was only thinking of his own position rather than any further ahead. In response to a direct question Dr Eftimie denied that he had ever tried to blame A&E staff for not administering antibiotics. This is at odds with documentation before this Tribunal where Dr E has recorded that he could not access Patient A's records in order to make a coroner's referral because Dr Eftimie had raised a complaint about A&E staff.

37. In response to a Tribunal question about the ethics course Dr Eftimie stated that, 'the course had helped me understand why I did this, assisted me in gaining insight and helped me to avoid making the same mistake again'. On hearing this, the Tribunal asked Dr Eftimie, given the three years that have elapsed and the courses that he had undertaken, whether he now understood why he had not taken the multiple opportunities to be completely honest about what he did, detailing what he was trying to conceal. Dr Eftimie, whilst stating that the course had been helpful to him in giving him the tools and language to understand his thought processes, did not articulate what these were.

38. The Tribunal were also of the view that Dr Eftimie's reflective statement was not sufficient to evidence his insight into his wrongdoing. Whist it set out the principles that are relevant it did not include details that illustrate how Dr Eftimie has reflected on his behaviour and applied them in practice to this case. For example, the reflective statement does not consider how and why the incident came about in terms of what was going through Dr Eftimie's mind both at the time and in the months that followed. Dr Eftimie was asked about this when he gave oral evidence and whether the course and the reflection he had undertaken had allowed him to recognise what had stopped him from taking advantage of the numerous opportunities he was presented with to be honest.

39. The Tribunal accepts that insight can take time to develop but considers that full insight involves accepting responsibility for the full history of events, showing recognition of how his wrongdoing could have impacted his colleagues who could have been criticised, Patient A's relatives and others, particularly if the timely prescribing of the antibiotics had been clinically relevant. The Tribunal were of the view that Dr Eftimie could have provided more detailed responses to questions when he gave evidence and noted that his responses on more than one occasion were one-word answers or repeated that the course he had attended gave him the skills and language to better understand his behaviour, without setting out what it was that he better understood. The Tribunal were accordingly left with the impression that Dr Eftimie has not fully understood the gravity of his behaviour and dishonest conduct.

40. The Tribunal has taken into account what Dr Eftimie has told them about the chronology of events. It notes that Dr Eftimie was informed during the course of the investigation that the prescribing of antibiotics to Patient A was not clinically relevant. It notes that his admissions to being dishonest follow this. Acting dishonestly in the belief that he had not provided adequate patient care in a critical situation, combined with insufficient insight to convince the Tribunal that the factors contributing to this behaviour were fully understood, means that there is a risk of repetition. Accordingly a finding of impairment is required for patient protection. That his belief was mistaken and the lie not clinically relevant on this occasion is a matter of chance and not relevant to the nature of the wrongdoing that the doctor has tried to hide.

41. The Tribunal has had regard to Dr Eftimie's position at the time, when he had only been in post for 10 months, in a new country, without the support of his immediate family, and undertaking a heavy workload. It accepts that he experienced panic because he did not

have expertise in urology and that finding Patient A unresponsive after his earlier attempt to take a history was a shock to him. It accepts that the doctor is remorseful of actions that have brought him before his regulator and has shown a willingness to remediate by undertaking relevant courses. However, it also notes that Dr Eftimie was not candid despite being provided with ample opportunity to be so over several months. While the Tribunal takes into account that Dr Eftimie, from the outset of investigations at the Hospital did quickly acknowledge that he had not in fact prescribed medication in advance of cardiac arrest, and the times recorded were incorrect, it is only now that there have been admissions to the motive for his dishonesty. This was to conceal an omission and evade blame for the proper treatment of Patient A, once he knew that they were deceased.

42. The Tribunal considered that a member of the public would be shocked by Dr Eftimie's conduct, and that it was a breach of the public's trust in the profession. Dr Eftimie put his own interest first when seeking to dishonestly hide what had occurred and make good him perceived omission.

43. Although the initial act may have initially been borne out of fear and self-preservation, it was not confined to one impulsive or momentary act of dishonesty. It considered that Dr Eftimie had failed to uphold the standards of GMP or to justify the trust that members of the public should be able to have for the profession. He has behaved in a way that is grossly at odds with what is expected of doctors.

44. Given all the circumstances of this case, the Tribunal determined that a finding of current impairment is also required to maintain public confidence in the profession and to declare and uphold proper standards of conduct within the profession.

Determination on Sanction - 28/01/2022

1. Having determined that Dr Eftimie's fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose

The Evidence

2. The Tribunal has taken into account relevant evidence received during the earlier stages of the hearing in reaching a decision on sanction.

Submissions

On behalf of the GMC

3. On behalf of the GMC, Mr Brook referenced the Sanctions Guidance ('SG'). He drew the Tribunal's attention to paragraphs 79-84 and indicated that this was an instance of dishonesty that carried on for a period of time and had been covered up. He asked the Tribunal to consider paragraph 92 indicating that that this case was so serious that action must be taken to protect members of the public and uphold standards.

4. Mr Brook referenced paragraph 93 and that the doctor has acknowledged fault. He said that falsifying a patient's record is serious. He confirmed that there is no evidence that this was done in more than one clinical episode and that the doctor has apologised. He indicated that paragraphs 97(e)-(f) of the SG were relevant, and said that there had been no finding to suggest that this is misconduct that is not remediable.

5. Mr Brook submitted that there is a degree of insight although this could be developed further. He noted that Dr Eftimie's evidence still includes references to a "mistake" although he has explicitly admitted the allegations of dishonesty. He said that the Tribunal may want to consider paragraph 107-109 carefully, but that suspension was appropriate and that the GMC were not suggesting erasure.

6. He said that Dr Eftimie's dishonesty was intended to conceal his omission, motivated by seeking to exonerate himself and avoid blame, with that falling elsewhere, and that multiple lies had been told in furtherance of this. However, as this is related to one clinical episode only, the GMC do not consider his actions such that they are incompatible with continued registration.

7. He outlined that given the finding of impairment and the limit on the insight evidenced that there would need to be a review before the doctor could resume unrestricted practice.

<u>On behalf of Dr Eftimie</u>

8. Mr Ainsworth indicated that he agreed with the thrust of what Mr Brook had said. He said that Dr Eftimie understands the issues in question and did not seek to go beyond what the Tribunal had indicated about the insufficiency of his insight. He submitted that Dr Eftimie was a relatively junior doctor at the time of the incident, having qualified under three years earlier and had only been in post for 10 months.

9. He said that he did not seek to rely on the fact that the doctor had qualified in Romania as some of his colleagues had suggested may have been relevant but did emphasise his relative inexperience, the fact that this was a single clinical episode and Dr Eftimie's genuine expression of apology.

10. Mr Ainsworth said that this was a case in which a sanction is required and that a Tribunal will normally consider sanctions sequentially, starting with conditions and thereafter considering the more onerous sanctions in ascending order of seriousness. He did not think

this is a case where anything less that conditions was appropriate. However, now that the doctor is practising in Romania, while light touch conditions detailing an of exchange of data, etc. may be possible, anything that references supervisors etc. will not be a condition he can meet practically, and this was not due to a lack of effort on his part but reflects that there are not the same facilities available in that jurisdiction as are available here. Accordingly, conditions are not workable, whether deemed adequate or not.

11. Mr Ainsworth submitted that suspension for long enough to be able to demonstrate the insight that is incomplete is the suitable sanction. He agreed that this week has had a salutary effect on the doctor and that it builds on his Maintaining Professional Ethics course. Direct questioning and cross examination, for what he did and why he did it will have had an impact.

12. He said that this is not a case where if insufficient insight is not evidenced in three years, that the Tribunal should suppose it would never emerge. It is significant for any professional to appear before their professional regulator and a short period of suspension should be appropriate. While in usual circumstances eight to ten months might be imposed, three or four months - and less than six - would be what he would invite the Tribunal to impose. This would allow him to evidence the remainder of the insight lacking. He indicated that the Tribunal would want to consider paragraph 99 of the SG onwards and that a handful of months was a relatively short time but would be sufficient.

13. He agreed that a review would be required before the end of any period of suspension.

The Tribunal's Determination on Sanction

14. The Tribunal considered the aggravating and mitigating factors in this case:

Aggravating

- Dr Eftimie's actions were a serious breach of GMP;
- Dr Eftimie's dishonesty in falsifying records was compounded by repeated failings to tell the truth when it was suspected;
- Dr Eftimie's dishonesty arose in the context of his professional role;
- Dr Eftimie's dishonesty was designed to cover up a perceived clinical error on his part; and
- Dr Eftimie's dishonest effort to evade what he perceived as his fault in preventing a patient's death, could have led to this responsibility falling upon colleagues.

Mitigating

- Save for these matters, Dr Eftimie has an unblemished record;

- Although not a single act, it was an isolated clinical episode in the context of his career;
- Dr Eftimie did admit on 18 December 2018 that he had not prescribed medication before Patient A went into cardiac arrest and that his notes were made retrospectively, (albeit not admitting dishonesty);
- There has been a lapse of time since the incident, (without any repetition of dishonesty in another clinical episode), which has allowed Dr Eftimie to work on remediation;
- There was evidence that Dr Eftimie has taken the need to remediate seriously by undertaking relevant courses and training;
- There was evidence of remorse and regret, reflecting some insight; and
- There was evidence before the Tribunal that the dishonesty was out of character for the doctor and arises out of a particular set of circumstances at a particular time. This included his relatively junior position, his lack of training in urology and the fact that when he called for specialist advice this was not forthcoming.

15. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own judgement.

16. In reaching its decision, the Tribunal has taken account of the SG and of the overarching objective. The Tribunal was mindful that the SG provides guidance and, if departed from, the Tribunal has to explain why. The Tribunal has also taken into account the submissions of parties.

17. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Eftimie's interests with the public interest. It has borne in mind that the purpose of sanctions is not to be punitive, but to protect patients and the wider public interest, although the sanction may have a punitive effect. It notes what is said about the difficulty, perhaps impossibility, of Dr Eftimie complying with conditions even if these were deemed appropriate.

No Action

18. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Eftimie's case, the Tribunal first considered whether to conclude the case by taking no action.

19. In considering whether there were exceptional circumstances to justify taking no action in this case the Tribunal had regard to several matters. There was sympathy for the doctor in relation to what must have been a stressful time for him in December 2018, given his situation at the time, which included having a heavy workload, providing Urology cover without having training in this specialty, and Patient A's unexpected death. The Tribunal also

took into account the fact that Dr Eftimie was working in the UK when he was isolated from his immediate family who were in Romania.

20. The Tribunal was mindful of the passage of time since the events and that Dr Eftimie has demonstrated a willingness to address remediation, by attending courses and undertaking training in the importance of accurate record-keeping and expressed remorse. While it is not of the view that it has sufficient evidence of his insight, it does consider that his failings are remediable and could be remediated.

21. The Tribunal was also mindful that Dr Eftimie's clinical skills were valued, and that the public interest will be served by allowing Dr Eftimie to return to unrestricted practice.

22. However, the Tribunal took into account the nature of Dr Eftimie's dishonesty. It considered that other medical professionals would regard Dr Eftimie's behaviour as unacceptable. The unacceptability of this behaviour by a doctor, recognising that membership of a profession has both its rewards and its obligations, needed to be marked by a sanction. The exceptional circumstances justifying taking no action were not found to be present.

23. The Tribunal therefore determined that in view of the serious nature of the Tribunal's findings on impairment, it would not be sufficient, proportionate or in the public interest, to conclude this case by taking no action.

Conditions

24. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Eftimie's registration. It has borne in mind that any conditions imposed would need to be appropriate, proportionate, workable and measurable.

25. The Tribunal noted that neither counsel considered that conditions were workable.

26. Irrespective of their practicality, the Tribunal determined that it would not be sufficient to direct the imposition of conditions on Dr Eftimie's registration as it would not adequately protect the public or address the public interest concerns in the case.

Suspension and Erasure

27. The Tribunal then went on to consider whether suspending Dr Eftimie's registration would be appropriate and proportionate.

28. The Tribunal were mindful of the gravity of Dr Eftimie's misconduct. However, it took into account that his conduct was said to be out of character and that the investigating officer at the Hospital shared her view after interviewing Dr Eftimie and colleagues, that there was little risk of repetition. While the Tribunal does not currently share that confidence given the inadequate material provided by way of demonstrating insight, it is alive to possible

communication issues where a doctor's first language is not English. For example, it accepts that his use of the word "mistake" within his evidence was used to mean something that was 'wrong', rather than something that was unintentional.

29. The Tribunal has found that Dr Eftimie was slow to admit his dishonesty, continuing to use the excuse that he had written his clinical notes prescribing antibiotics in the hope that this could help Patient A if resuscitation was successful. This excuse had been repeated through the early months of 2019 even after Dr F had been clear in December 2018, that there was evidence that he had only made these notes after he knew that the resuscitation of Patient A had not been successful. The admissions of dishonesty in relation to creating false records and in doing so for the purpose of concealing his perceived clinical error are only before this Tribunal now.

30. The Tribunal considered that once Dr Eftimie had lied, he may have felt unable to extricate himself from that lie. However, his efforts to work with colleagues, who had reason to be wary of him and earn their trust, can be seen in the views of colleagues who acknowledged his remorse for what happened and believed his actions in relation to this clinical episode to be out of character.

31. As the dishonesty was both persistent and attempts were made to cover it up the Tribunal did consider the sanction of erasure. However, given that this case involved a single clinical episode concerning one patient, it considers that erasure would be disproportionate, taking into account the mitigating circumstances that exist.

32. The Tribunal considers that a period of suspension would enable Dr Eftimie to further reflect on what had gone wrong, and would be sufficient to mark the wrongdoing and satisfy the public interest.

33. The tribunal considered that a period of five months suspension should be sufficient to enable Dr Eftimie to complete his remediation by further reflecting. It would also uphold the public interest in marking the seriousness of Dr Eftimie's misconduct and send a message to the profession about the standards expected of a doctor.

34. The Tribunal determined that given its finding that there had been insufficient evidence of remediation and insight, that it would be useful to direct a review.

35. The Tribunal considered that a reviewing Tribunal would be assisted if Dr Eftimie provided:

- An updated reflective statement which demonstrates that he has developed full insight into his behaviour, addressing the potential consequences of it for others, reflecting the facts of this case;
- Evidence of Continuing Professional Development;
- Any other information that he considers will assist the reviewing Tribunal.

Determination on Immediate Order - 28/01/2022

1. Having determined to suspend Dr Eftimie's registration for a period of 5 months, the Tribunal now has to consider, in accordance with Rule 17(2)(o) of the Rules, whether Dr Eftimie's registration should be subject to an immediate order.

Submissions

On behalf of the GMC

2. Mr Brook did not make an application on this matter and stated that an immediate order of suspension was not necessary.

On behalf of Dr Eftimie

3. Mr Ainsworth agreed with Mr Brook's submission and stated that an immediate order was not necessary given the details of this case.

The Tribunal's Determination

4. The Tribunal in coming to its decision on an immediate order of suspension it had regard to paragraphs 172-173 of SG:

> *'172. The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor…*
>
> *173. An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession'*.

5. The Tribunal took into account the submissions made by parties and its substantive findings on impairment and sanction in coming to a decision regarding whether to impose an immediate order of suspension.

6. Given that the substantive findings of the Tribunal on impairment have been made in part on public protection grounds, a risk to patients has been found to exist. This risk will

continue until Dr Eftimie's insight develops further. These circumstances are different from where impairment is only found on public interest grounds in order to mark wrongdoing. The Tribunal has decided that the appropriate sanction in this case is one of suspension, which both parties were agreed upon. Given that substantive decision on sanction involves suspension, it follows that suspension is required to protect the public during any interim period.

7. This means that Dr Eftimie's registration will be suspended from today. The substantive direction, as already announced, will take effect 28 days from the date on which written notification of this decision is deemed to have been served, unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.

8. There is no interim order to revoke.

9. Case concluded.