

PUBLIC RECORD

Dates: 04/03/2024 - 13/03/2024

Medical Practitioner's name: Dr Alexandru BOANCA

GMC reference number: 7030104

Primary medical qualification: Doctor - Medic 2006 Universitatea de Medicina si Farmacie "Iuliu Hatieganu"

Type of case	Outcome on impairment
New- Misconduct	Consideration of impairment not reached

Summary of outcome

Adjourned to a new Tribunal

Tribunal:

Legally Qualified Chair	Mr Jonathan Storey
Lay Tribunal Member:	Ms Colette Neville
Medical Tribunal Member:	Dr Keith Dunnett
Tribunal Clerk:	Mr Josh Dayco

Attendance and Representation:

Medical Practitioner:	Present, not represented
GMC Representative:	Ms Georgina Goring, 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.

ANNEX A – 13/03/2024

Application to adjourn

1. On 5 March 2024, Dr Boanca made an application to the Tribunal to adjourn proceedings. The Tribunal heard detailed submissions from both Dr Boanca and Ms Goring, Counsel, on behalf of the GMC. The following is a non-verbatim summary of the submissions made by both parties.
2. Dr Boanca submitted that he has been experiencing financial difficulties as a consequence of his referral to the GMC and has had limited access to the internet and other means of communication. Dr Boanca stated that he has not been able to familiarise himself with the documents provided by the GMC and has not prepared his case.
3. Dr Boanca stated that he has made efforts to attend this virtual hearing using his recently restored internet connection. Dr Boanca also referred the Tribunal to his previous engagement and communications with the GMC and the MPTS.
4. Ms Goring submitted that the hearing should proceed and that the Tribunal should invite Dr Boanca to state whether he would admit any of the allegations. She referred the Tribunal to the background of the case, and to the history of communication and correspondence between the GMC and Dr Boanca. She submitted that there had been a lack of engagement from Dr Boanca which led to the GMC's witnesses being stood down and the hearing length being reduced. Ms Goring submitted that if the Tribunal was to consider adjourning the hearing outright to a future date, a further listing of a three-week window would take a number of months to be re-scheduled. She said that there is a public interest in these matters being brought to a conclusion as soon as possible, given that the oldest of the allegations dates back almost five years. She added that a further delay would clearly have a financial impact on Dr Boanca. Ms Goring submitted that it is in the interest of all parties to proceed.

5. Nevertheless, Ms Goring indicated that the GMC agreed that Dr Boanca should be provided with some time to consider its evidence and that its witnesses could be made available if required. She invited the Tribunal to consider whether it could sit on the dates for which this matter was originally listed before the hearing length was reduced. When asked, Dr Boanca indicated that he would be available on the original hearing dates should they be restored.

The Tribunal's Decision

6. The Tribunal considered the GMC's evidence of disclosure and service to date and was concerned that the hearing length was reduced despite an email (sent by Dr Boanca on 13 February 2024) stating that he did not agree to this. The Tribunal was also concerned that Dr Boanca had not had the time to prepare his case.
7. Given the agreement between Dr Boanca and the GMC that he should be afforded some time to do so, and given that the Tribunal was not due to sit in any event on the morning of Wednesday 6 March 2024 and on Monday 11 March 2024, the Tribunal determined to adjourn this hearing until Tuesday 12 March 2024. This would enable Dr Boanca to read the evidence, consider his position in relation to the GMC's allegation, and decide whether he requires any of the GMC witnesses to be made available for cross-examination.
8. The Tribunal indicated that it would be grateful when the hearing reconvenes for Dr Boanca to indicate his likely position in relation to the allegation and whether he disputes any of the GMC witness statements. In order that the GMC be given time to arrange the attendance of witnesses, if this was necessary, it directed Dr Boanca to confirm whether he disputed any of its witness evidence by email to the GMC by 12 noon on Monday 11 March 2024.
9. The Tribunal also indicated that, in the event that the hearing proceeded, it would be able to reinstate some but not all of the dates that were originally listed. The dates that could be reinstated are 18, 19, 20 and 21 March 2024.

ANNEX B – 13/03/2024

Application to adjourn

10. On 13 March 2024, the Tribunal raised concerns with the parties about whether the hearing should be adjourned to a new Tribunal or proceed within the current (extended) hearing window of five further days. The Tribunal was concerned that, given Dr Boanca's position that he intends to cross examine most, if not, all of the GMC witnesses, it would not be able to conclude the hearing during the time remaining. The Tribunal indicated that if the hearing were to proceed and was then adjourned part-heard, it may not be relisted until six to nine months later (at the earliest) given the availability of the Tribunal

members. The Tribunal considered it possible that if the hearing were to be adjourned at this stage, the case could potentially be relisted to a newly constituted Tribunal at an earlier date. This would also allow the hearing length to be reconsidered, given Dr Boanca's expressed wish to cross-examine all of the GMC witnesses.

Background of the hearing

11. The hearing was originally listed for 15 days (minus one and a half non-sitting days) from 4 March 2024 to 22 March 2024. Due to what it considered Dr Boanca's lack of engagement, the GMC made an application to the MPTS Case Manager for the hearing length to be reduced to 6.5 days. Consequently, the GMC witnesses were all stood down.
12. On 4 March 2024, Dr Boanca attended the hearing. He stated that, due to his current financial hardship and issues with internet access, he had experienced difficulties accessing the documents. Dr Boanca asked the Tribunal whether he could be afforded the opportunity to read the documents, consider his defence and determine whether he requires any GMC witnesses to be cross-examined. The GMC agreed. On 5 March 2024 the Tribunal therefore determined to adjourn the hearing and resume on 12 March 2024.
13. On 12 March 2024, Dr Boanca stated that he would require all of the GMC witnesses to give oral evidence and to be cross-examined. Given Dr Boanca's indication that he disputed elements of the GMC witnesses' evidence, the Tribunal raised its concerns of not being able to conclude this hearing (or indeed the facts stage) within the current hearing window.
14. The Tribunal invited submissions from both parties in relation to the concerns it had raised. The following is a non-verbatim summary of the submissions made by both parties.
15. Ms Goring, on behalf of the GMC, submitted that neither proceeding nor adjourning the hearing was attractive, but that the GMC understood the Tribunal's concerns, particularly given the Tribunal Members' availability. She submitted that given that the GMC is unaware of what potential issues may arise as the hearing progresses it was unrealistic to expect Stage One to be completed within the next five days.
16. Dr Boanca said that he was open to an adjournment but submitted that he does not want a different Tribunal to hear his case. He indicated that it would put him at a disadvantage, given this Tribunal's familiarity with the background of this case. He also said that it would lengthen the whole process given that he would have to 'explain everything' again.

The Tribunal's Decision

17. The Tribunal took account of the submissions from both parties, advice from the Legal Qualified Chair and Rule 29(2) of the General Medical Council ('GMC') (Fitness to Practice Rules) 2004 as amended ('the Rules'), which states:

(2) Where a hearing of which notice has been served on the practitioner in accordance with these Rules has commenced, the Committee or Tribunal considering the matter may, at any stage in their proceedings, whether of their own motion or upon the application of a party to the proceedings, adjourn the hearing until such time and date as they think fit.

18. The Tribunal bore in mind that it was required to strike a balance between fairness to Dr Boanca as well as fairness to the GMC, and to bear in mind the need to deal with the hearing fairly and expeditiously. It took into consideration the overarching objective and in particular the public interest.
19. The Tribunal noted that, given Dr Boanca's indication that he would require all the GMC's witnesses to give oral evidence, the present hearing window was likely to be insufficient to conclude the case or even conclude the facts stage of the proceedings. On 13 February 2024, three weeks before the hearing was scheduled to start, Dr Boanca made it clear to the GMC that he disagreed with its decision to reduce the hearing length from 15 to six and a half days. Even with the additional four days that the Tribunal was able to sit (18-21 March 2024), it still considered that concluding the facts stage was unlikely.
20. The Tribunal considered that, if it proceeded to open the case, it would be unfair for the hearing to be adjourned part-heard in the middle of Stage One. In those circumstances, the hearing would then be unlikely to reconvene until late 2024 or early 2025, given the availability of one of its members.
21. The Tribunal recognised that, if the hearing adjourned now to a differently constituted Tribunal, it was likely that the hearing could be scheduled and accommodated sooner. It also considered that the hearing could be scheduled with a more appropriate hearing length, to enable it to be completed within a single uninterrupted window. The Tribunal considered this to be the fairest course of action in the circumstances. The Tribunal took into account Dr Boanca's concern that he would have to explain everything again to the new Tribunal but considered that this could be effectively addressed by making a transcript of this hearing available.
22. It therefore determined to adjourn this hearing. Dr Boanca's hearing will be rescheduled in due course.
23. The Tribunal noted from the unredacted version of the documents provided by the GMC that reference was made to a number of issues potentially concerning XXX. These included: the police call-out in relation to XXX, XXX and an HPAN alert following patient safety concerns. Given the possibility that XXX may have influenced Dr Boanca's behaviour, the Tribunal considered it appropriate to make a direction for certain relevant evidence to be disclosed to Dr Boanca and for the GMC to consider its admissibility at a future hearing.

24. Before handing down its decision, the Tribunal invited submissions from both parties in relation to some proposed directions. Ms Goring indicated that the GMC did not anticipate any difficulties with the directions. However, she invited the Tribunal to consider directing a potential hearing window for the case to be relisted. Dr Boanca asked for the directions to be clear in allowing him sufficient time to provide a witness statement in advance of a future hearing.
25. After considering the submissions made by both parties, the Tribunal, pursuant to Rule 16(1A)(b), issued the following directions:
- The case should be relisted for hearing at the earliest opportunity, not less than 28 days from today, with a time estimate of 20 days;
 - The GMC should use its best endeavours to obtain and disclose to Dr Boanca, and should consider the admissibility in evidence of, the HPAN alert and XXX referred to within the witness statement of Dr A;
 - If Dr Boanca intends to give oral evidence at a future hearing, he should provide a signed witness statement to the GMC, giving his account in response to the Allegation, at least 28 days before the relisted hearing commences;
 - A transcript of this hearing be made available to the newly constituted Tribunal and to the parties;
 - All of the GMC witnesses should be made available to give oral evidence;
 - Fully unredacted bundles should be served and made available to the newly constituted Tribunal.