

PUBLIC RECORD

Dates 22/12/2022

Medical Practitioner's name: Dr Anusha DE ALMEIDA
GMC reference number: 6061740
Primary medical qualification: Vrach 1999 I.M Sechenov Moscow Medical Academy

Type of case **Outcome on impairment**
Review - Conviction / Caution Not Impaired

Summary of outcome
Suspension revoked

Tribunal:

Legally Qualified Chair	Mr Sean Ell
Lay Tribunal Member:	Mrs Sue Wadham
Medical Tribunal Member:	Dr Shehleen Khan
Tribunal Clerk:	Mr Mark Hibbert

Attendance and Representation:

Medical Practitioner:	Present and not represented
Medical Practitioner Representative:	N/A
GMC Representative:	Mr Lewis Kennedy, Counsel

Attendance of Press / Public

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

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 Impairment - 22/12/2022

1. At this review hearing the Tribunal now has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr De Almeida's fitness to practise is impaired by reason of her conviction.
2. This determination will be handed down in private. However, as this case concerns Dr De Almeida's conviction, a redacted version will be published at the close of the hearing.

Background

3. Dr De Almeida qualified in 1999 from Moscow State Medical Academy I.M. Sechenov, Russia. She completed her training in psychiatry at the University of Cardiff in 2017. At the time of the events, Dr De Almeida was a specialty doctor for the Children and Adolescent Mental Health Services (CAMHS).
4. Dr De Almeida's initial hearing took place from 15-18 August 2022. The facts found proved can be summarised as follows: that on 10 February 2020 at Mid Wales (Merthyr Tydfil) Magistrates' Court, Dr De Almeida was convicted of committing fraud contrary to sections 1 and 4 of the Fraud Act 2006. Dr De Almeida was sentenced to six weeks imprisonment, suspended for 18 months and required to carry out 80 hours of unpaid work within twelve months.
5. The GMC was notified by the police following Dr De Almeida being formally charged with fraud in late 2019.
6. Dr De Almeida initially denied any wrongdoing but pleaded guilty to the offences at court and also admitted the Allegation at her initial MPT hearing.

7. Dr De Almeida's conviction resulted from her fraudulently writing eight prescriptions, between May 2015 and December 2017, for a close personal friend.
8. The August 2022 Tribunal determined that Dr De Almeida's fitness to practise was impaired as a result of her conviction and suspended her name from the medical register for a period of four months, directing a review. It noted that Dr De Almeida had pleaded guilty, paid the compensation costs and surcharge, completed the 80 hours of unpaid work and that the term of her suspended sentence had expired. However, it determined that *'it was unable to conclude that her insight into her conviction and what led to it was complete.'* Furthermore, it concluded that *'Dr De Almeida had taken some steps towards remediation but had not fully remediated for her dishonesty and conviction.'* The Tribunal was not satisfied that there was no risk of repetition.
9. In directing a review, the Tribunal stated that the onus would be on Dr De Almeida to demonstrate how she had addressed its concerns and was fit to practise without restriction. It stated that the reviewing Tribunal may be assisted by the following:
 - *'Evidence that she has completed and reflected upon courses relevant to her conviction and her dishonesty, this could include courses on appropriate prescribing, probity and ethics;*
 - *A further statement of personal reflections demonstrating that Dr De Almeida has developed further insight into her actions, including what impact XXX had on her actions at the time and why she continued to deny her fraudulent behaviour until February 2020;*
 - *Evidence that she has kept her clinical knowledge and skills up to date during her suspension; and*
 - *Any other information she thinks will assist the next Tribunal.'*

The Evidence

10. The Tribunal has taken into account all the evidence received, both oral and documentary.

11. Dr De Almeida provided her own reflective statement dated 12 December 2022, and also gave oral evidence at the review hearing to confirm the contents of her statement and that it should be considered as her evidence in chief. Mr Kennedy, Counsel instructed by the GMC, did not cross-examine Dr De Almeida.
12. The Tribunal received documentary evidence which included:
 - Record of Determinations of the MPT, dated 18 August 2022;
 - Correspondence from the GMC to Dr De Almeida;
 - 5 CPD certificates covering topics such as ethics, professional standards, insight, remediation and avoiding repeating mistakes;
 - 12 Health Education England certificates relating to prescribing drugs;
 - Certificate of attendance at the Royal Glamorgan Hospital Post Graduation Programme Group on 22 and 29 November 2022, and 6 and 13 December 2022;
 - Email evidence of having arranged a mentor through Cwm Taf Morgannwg University Health Board ('the health board');
 - Certificates of completion of NHS modules on disability awareness and dementia; and
 - Email from Ms A, Clinical Audit Manager, confirming Dr De Almeida's placement in Clinical Audit at the health board.

Submissions

13. On behalf of the GMC, Mr Kennedy submitted that the GMC was neutral as to whether Dr De Almeida's fitness to practise remained impaired. He submitted that it was a matter for the Tribunal to assess the evidence and determine whether it covered everything that the initial Tribunal wished to see.
14. Dr De Almeida submitted that her fitness to practise is no longer impaired and that she is ready to return to unrestricted practise. She stated that she fully understood and accepted her wrongdoing and that she had worked hard to put things right. She submitted that she had learned her lesson in a hard way and had made every attempt she could to remediate for her actions.

The Relevant Legal Principles

15. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. As noted above, the previous Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal is aware that it is for the doctor to satisfy it that she would be safe to return to unrestricted practise.
16. This Tribunal must determine whether Dr De Almeida's fitness to practise is impaired today, taking into account her 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.
17. The Tribunal must have regard to the statutory overarching objective and should not give excessive weight to any one limb.
18. The Tribunal had regard to the case of *Abrahaem v GMC [2008] EWHC 183* which outlined that there was a persuasive burden on the practitioner at a review hearing to demonstrate that they fully acknowledge why their past performance was deficient and address the past impairment.
19. The Tribunal also had regard to paragraph 163 of the Sanctions Guidance which states that:

'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.'

The Tribunal's Determination on Impairment

20. The Tribunal gave consideration to the determination of the previous Tribunal in particular, its findings regarding insight, remediation and risk of repetition.
21. The Tribunal considered all of the documentary evidence and the submissions made by both parties when considering its decision on impairment. It noted the GMC's neutral position and Dr De Almeida's submission that her fitness to practise was no longer impaired.

22. The Tribunal acknowledged the significant amount of evidence provided by Dr De Almeida to address the concerns of the original Tribunal. It noted the courses she had taken both to address her insight into her conviction and to ensure her knowledge and skills have been kept up to date.
23. The Tribunal considered Dr De Almeida's reflective statement to clearly demonstrate that she had considered how her actions had impacted on others and how, when faced with a similar situation since, she responded in a different way. It took the view that Dr De Almeida understood and accepted the seriousness of her actions and the subsequent conviction and that the subsequent actions taken against her had had a deep impact upon her.
24. The Tribunal also noted the evidence that Dr De Almeida had arranged for a workplace mentor and gave her credit for the work she had been doing in the Clinical Audit Team at the Trust.
25. The Tribunal determined that the evidence was sufficient to show that Dr De Almeida had fully developed her insight and had remediated for her previous actions. Therefore, it considered that her actions were unlikely to be repeated.
26. This Tribunal has therefore determined that Dr De Almeida's fitness to practise is no longer impaired by reason of her conviction.
27. Having determined that Dr De Almeida's fitness to practise was no longer impaired, the Tribunal went on to consider whether to revoke the original order of suspension or allow it to run the course of the full four months until 19 January 2023. It was of the view that having fully remediated and being no longer impaired, that it was not necessary for the suspension to continue to satisfy the overarching objective. It also noted that it is in the public interest for a doctor that is no longer impaired to return to practise.
28. The Tribunal therefore determined to revoke the current suspension and allow Dr De Almeida to return to practise with immediate effect.
29. That concludes the case.