

**PUBLIC RECORD**

Date: 16/11/2022

Medical Practitioner's name: Dr Ashraf LABIB  
GMC reference number: 4165530  
Primary medical qualification: MB ChB 1983 University of Alexandria

**Type of case** **Outcome on impairment**  
Review - Misconduct Not Impaired

**Summary of outcome**  
Suspension revoked

**Tribunal:**

Legally Qualified Chair	Mr Paul Moulder
Lay Tribunal Member:	Mr Colin Sturgeon
Medical Tribunal Member:	Dr Amir Zafar
Tribunal Clerk:	Ms Angela Carney

**Attendance and Representation:**

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Sydney Chawatama, Counsel, instructed by Gordons Solicitors
GMC Representative:	Mr Simon Lewis, 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 Impairment - 16/11/2022

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 Labib's fitness to practise is impaired by reason of misconduct.

## Background

2. Dr Labib qualified in 1983 from the University of Alexandria. Between 1990 and 1995, he worked in Ear, Nose, and Throat ('ENT') Surgery first as a Senior House Officer and then as a Registrar. From 1995-1998, Dr Labib worked as a Clinical Assistant in ENT Surgery, progressing to the position of Associate Specialist in ENT Surgery, and worked in this capacity between 1998 and 2014. He held both these latter positions at Russells Hall Hospital in Dudley, West Midlands.

3. In 2012 Dr Labib founded AL Aesthetics Ltd, a private cosmetic practice with branches in Wolverhampton, London, and Solihull, where he was the Clinical Director and Aesthetic Specialist. Dr Labib is also owner and founder of the AL Medical Academy through which he teaches cosmetic procedures to other medical professionals. At the time of the events, Dr Labib was practising in his capacity as an Aesthetic Specialist at AL Aesthetics Ltd.

4. Following a non-invasive rhinoplasty performed by Dr Labib, using a filler, on 15 April 2019 ('Procedure 1'), Patient A was left with a patch of redness on his nose. He contacted Dr Labib on 13 June 2019 to discuss his concerns about the redness and was advised by Dr Labib that Hyalase, an enzyme that dissolves filler, would be effective in resolving the redness.

5. On 23 July 2019, Patient A underwent the Hyalase injections ('Procedure 2') but this did not resolve the redness and the shape of his nose had returned to its original state. Patient A raised concerns with the GMC on 28 August 2019, via the online complaint form on the GMC website.

## March 2022 Tribunal

6. The facts found proved by the Tribunal at Dr Labib's hearing which took place in March 2022 (the March 2022 Tribunal) can be summarised as failures in relation to the two

non-invasive cosmetic procedures that he carried out on Patient A in June and July 2019. The March 2022 Tribunal found that Dr Labib failed to:

- adequately record the initial consultation with Patient A
- carry out an adequate aesthetic examination
- adequately discuss the risks and benefits of the second procedure
- record Patient A's consent to the second procedure
- offer Patient A adequate follow-up care or alternatives when the patient raised concerns about the result of the second procedure
- communicate further with Patient A

7. The March 2022 Tribunal also found that Dr Labib had inappropriately offered Patient A a refund for the initial procedure contingent on the withdrawal of his complaint to the GMC

8. The March 2022 Tribunal determined that Dr Labib's actions amounted to serious misconduct and that he had breached the principles in paragraphs 15c, 17, 19, 21, 31, 32, 49a, 65, and 80 of Good Medical Practice (GMP)

9. The March 2022 Tribunal's view was that the heart of the issue was the pressure Dr Labib put on Patient A to withdraw the complaint from the GMC in order to receive a full refund. It considered that Dr Labib should have known that to offer a financial inducement to a patient to withdraw a complaint to his regulator was unacceptable behaviour. As this was the crux of the serious misconduct, the March 2022 Tribunal considered that even though other elements of the Allegation were individually below expected standards, and not seriously below, cumulatively this catalogue of fundamental errors was in breach of all three limbs of the overarching objective and numerous principles of GMP.

10. The March 2022 Tribunal accepted that Dr Labib had demonstrated that he was starting to remediate. However, it was not persuaded that there were satisfactory mechanisms to ensure he did not slip into his old way of working and therefore there was a likelihood of repetition in the future. The March 2022 Tribunal accepted that Dr Labib had shown some insight.

11. The March 2022 Tribunal was of the view that Dr Labib's attempts to remediate were insufficient and in order to complete insight and remediation he needed to fully accept what he had done. The March 2022 Tribunal found that Dr Labib had not been open with his appraiser and his letter of apology was extremely belated.

12. In relation to his inducement of Patient A, the March 2022 Tribunal determined that by asking to be copied into Patient A's correspondence with the GMC, this highlighted Dr Labib's lack of understanding of the gravity of his actions. With regards to the new measures

in place at the practice, the March 2022 Tribunal considered that unless Dr Labib was involved in meaningful training and audits, there was a high risk of repetition.

13. The March 2022 Tribunal was of the view that if Dr Labib seriously progressed his attempts, he was capable of gaining full insight and remediation. It concluded that all three limbs of the overarching objective were engaged and Dr Labib's fitness to practise was impaired by reason of his misconduct.

14. The March 2022 Tribunal made it clear that the areas in which it had concerns about the likelihood of repetition were in Dr Labib's clinical failings; it was convinced that Dr Labib would not offer a financial inducement again.

15. The March 2022 Tribunal was of the view that Dr Labib's misconduct was so serious that significant action had to be taken to maintain public confidence in the profession and to maintain proper professional standards. It was satisfied that a sanction of suspension would have a deterrent effect and send the appropriate message to the profession and the wider public interest that such misconduct is unacceptable. It would meet all three limbs of the overarching objective and mark the seriousness of the Allegation. The March 2022 Tribunal concluded that a suspension of eight months was the appropriate and proportionate sanction.

16. The March 2022 Tribunal was of the view that there was no risk of repetition of the more serious misconduct, and any concerns related to Dr Labib's administrative practice and processes. It determined that that an immediate order would be disproportionate and not necessary.

17. The March 2022 Tribunal considered it may assist the reviewing Tribunal if Dr Labib provides:

- Evidence that he has participated in, or formed, peer groups with fellow medically qualified aesthetic practitioners
- Evidence of further relevant training and CPD, with particular attention on consent, auditing, and record keeping
- Evidence that he has refamiliarised himself with GMP
- Updated reflections in relation to his misconduct
- any other information that Dr Labib considers will assist the reviewing Tribunal.

## The Evidence

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

19. The documentary evidence included but was not limited to:

- Record of Determinations March 2022
- Dr Labib's Reflections
- Practice Audits and Documents
- Dr Labib's reflections on patient journey
- Testimonials from Dr Labib's Peer Group, Dr E, Ms B and Dr C
- Dr Labib's summary of reflections on Continuing Professional development (CPD) Courses
- Dr Labib's voluntary independent appraisal undertaken by Dr D
- CPD Certificates:
  - Consent for Health and Social Care – Level 2 (completed twice)
  - Duty of Candour
  - Countering Fraud, Bribery & Corruption
  - Bribery Act Awareness
  - Communication and Record Keeping
  - Documentation and Record-Keeping – Level 2
  - Hyaluronidase Dermal Lip Filler Dissolving Course

20. Dr Labib provided two reflective statements and also gave oral evidence to the Tribunal.

#### **Dr Labib's oral evidence**

21. Dr Labib confirmed he has fully complied with his suspension and his misconduct has not been repeated. Dr Labib told the Tribunal that he has had time to reflect on his misconduct and the gravity of it. Dr Labib apologised for his actions and stated that he is deeply regretful and remorseful.

22. Dr Labib explained that he has instituted enhanced clinical governance systems at his practice. This involved the appointment of a clinical manager as well as the digitalising of the consent, complaints and refund policies and procedures. He stated that, following his attendance on a course on the duty of candour, he had put in place policies that include the holding of regular safety and quality meetings as well as encouraging a culture of openness and honesty amongst practice staff. He stated that he has reviewed and clarified the clinic's refund policy.

23. In relation to GMP, Dr Labib told the Tribunal that he has reviewed the four domains and undertaken additional courses. He stated that he has formed a peer group with three other doctors with whom he discusses best practice and case reviews. These doctor's provided testimonials. He stated that he has also reviewed the clinic's audit process and discussed with his team. He said that he has regular audit meetings and discusses these with his team and meets regularly with his appraiser, Dr D, and his peer group. Dr Labib said that during his suspension he set learning objectives with Dr D.

24. Dr Labib said that following the complaint with Patient A he has undertaken a course on the clinical use of Hyaluronidase and reviewed his practice with regards to this. He told the Tribunal that his learning is ongoing.
25. Dr Labib accepted that it was totally wrong of him to offer a refund to Patient A with conditions attached to the refund. He said it was a lack of judgement on his part and that he was ignorant as, in his own mind, he had likened it to an out of court settlement. He said the offer of a conditional refund was wrong because it put Patient A under duress and pressure. He said that patients have the right to discuss any concerns either with the practitioner or the GMC.
26. Dr Labib told the Tribunal that his actions would not be repeated. He stated one of the concerns was record keeping and documentation and he has introduced new processes. He said that now all complaints are now dealt with transparently whether written or verbal and are taken very seriously. Dr Labib said the clinic has regular meetings where staff can raise any concerns of their own or any patient complaints. He said if a member of staff raised a concern about himself it would be discussed at a meeting. He said that he would take any concerns 'on board' and if he was unable to resolve the concern, he would involve the doctors from his peer group to mediate.
27. Dr Labib told the Tribunal that he had restructured the Practice as it had become clear that he was undertaking too much work. He said during his suspension he appointed three additional practitioners. He said that these had been retained and his will allow him to undertake further CPD and additional medical training.
28. In response to Tribunal questions, Dr Labib told the Tribunal that he completed the bribery awareness training online which lasted for a few hours. He said he chose this course because of his misconduct in relation to Patient A and now fully understands that his actions constituted bribery which put pressure on the patient. Dr Labib confirmed that he undertook the course on bribery twice for continued learning and the training for all staff was ongoing.
29. In reference to a Safety, Quality and Risk Meeting on 4 April 2022 where a single patient complaint was noted, Dr Labib assured the Tribunal that the complaint would have been resolved. He told the Tribunal that during his suspension he had continued to undertake aesthetic treatments, as these were not affected by suspension of his registration.
30. Dr Labib told the Tribunal that his statement of reflection, contained in his bundle provided to the Tribunal, had been completed following his suspension. He said he had undertaken some CPD prior to the hearing in March 2022 and continue to do so following the hearing. He said that his reflection was in two parts, initial reflection and one following the course he undertook.
31. Dr Labib told the Tribunal that he had wrongly dealt directly with Patient A's complaint, but the complaints procedure had now changed. He said that all complaints now go through a rigorous complaint procedure, dealt with initially by the Practice Manager within a specific time frame. He said that he would only get involved depending on the type of complaint. He said that any concerns from staff can be raised at the team meetings.

32. Dr Labib told the Tribunal that he has reflected on the impact his actions had on Patient A and stated that the measures he has put in place will ensure there will be no repetition. Dr Labib accepted that his previous misconduct undermined public confidence in the profession.

### Submissions

33. On behalf of the GMC, Mr Simon Lewis referred the Tribunal to paragraphs 163 and 164 of the Sanctions Guidance (November 2020) (the SG) which state:

*‘163 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.*

*164 In some misconduct cases it may be self-evident that, following a short suspension, there will be no value in a review hearing. However, in most cases where a period of suspension is imposed, and in all cases where conditions have been imposed, the tribunal will need to be reassured that the doctor is fit to resume practice – either unrestricted or with conditions or further conditions. 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.’*

34. Mr Lewis stated that the Tribunal must consider whether Dr Labib’s fitness to practise remains impaired and if impaired, what sanction, if any, should be imposed. Mr Lewis stated that the GMC adopts a neutral stance on whether Dr Labib’s fitness to practise remains impaired as of today; it is a matter for the Tribunal. He stated that the Tribunal may wish to have regard to Dr Labib’s original misconduct, and consider whether the misconduct is remediable, has been remediated, the likelihood of repetition, the level of insight demonstrated, whether he has maintained his skills and knowledge and the level of risk to patients.

35. Mr Lewis referred the Tribunal to the determinations made by the March 2022 Tribunal and provided the background to the case.

36. On behalf of Dr Labib, Mr Sydney Chawatama stated that Dr Labib welcomed the GMC’s neutral stance on impairment. Mr Chawatama stated that Dr Labib fully accepted that the onus is on him to demonstrate that he has remediated his misconduct. He reminded the Tribunal that Dr Labib’s misconduct occurred approximately three years ago and had not been repeated. He said that the misconduct involved one patient. Mr Chawatama referred the Tribunal to the March 2022 Tribunal’s determination and the test to be applied of

whether the misconduct is remediable, has been remedied and whether it is likely to be repeated.

37. Mr Chawatama reminded the Tribunal of the suggestions made by the March 2022 Tribunal. He reminded the Tribunal that Dr Labib admitted the Allegation in full and that the March 2022 Tribunal found that he had some insight. Mr Chawatama stated that Dr Labib has undertaken a structured approach to demonstrate that he has remediated his misconduct. He referred the Tribunal to the documentary evidence and oral evidence. He reminded the Tribunal of Dr Labib's regret and remorse and the full recognition of his wrongdoing and the deficiencies in his clinical practice which he has now addressed. He stated that Dr Labib has now put safeguards in place at the clinic to ensure complaints are dealt with appropriately. He said that Dr Labib's responses to the Tribunal's questions was candid and straightforward. Mr Chawatama stated that Dr Labib has demonstrated that there is no risk of repetition and submitted that Dr Labib has remediated his misconduct.

38. Mr Chawatama referred the Tribunal to the testimonials from the three doctors in Dr Labib's peer group and from Dr D, his appraiser. He reminded the Tribunal that it was Dr D's view that Dr Labib is fit to practise. Mr Chawatama submitted that Dr Labib's oral evidence was emphatic that he fully appreciates the gravity of his offence. Mr Chawatama submitted that Dr Labib has not reoffended and has put safeguards in place to ensure no repetition. Mr Chawatama stated that Dr Labib has addressed the deficiencies identified in his clinical practice and demonstrated that he has maintained his skills and knowledge, as evidenced by the relevant CPD courses he has undertaken and the audits he has put in place. Mr Chawatama submitted that patients and the public will not be placed at risk, if Dr Labib resumes practice. He reminded the Tribunal of the lengthy suspension which he submitted addressed the public interest, and of the safeguarding processes that Dr Labib has put in place and which protect the public.

39. Mr Chawatama submitted that the Tribunal can be satisfied that Dr Labib has demonstrated that he has addressed all the points in paragraph 164 of the SG and that his fitness to practise is no longer impaired.

### **The Relevant Legal Principles**

40. 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 he would be safe to return to unrestricted practise.

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



## The Tribunal's Determination on Impairment

### Misconduct

42. The Tribunal noted that Dr Labib's actions were found to have breached the principles in paragraphs 15c, 17, 19, 21, 31, 32, 49a, 65, and 80 of Good Medical Practice which were individually below the expected standards. It also noted that it was found that Dr Labib put pressure on Patient A to withdraw his complaint to the GMC in order to receive a full refund, which was unacceptable behaviour and was at the heart of the misconduct. The Tribunal in March 2022 had been satisfied that cumulatively Dr Labib's fundamental errors breached all three limbs of the overarching objective and the above principles of GMP which amounted to serious misconduct.

### Impairment

43. The Tribunal noted the comprehensive documentary evidence which Dr Labib provided to it. The Tribunal found that Dr Labib had recognised the concerns raised by the March 2022 Tribunal and had systematically addressed each one. The Tribunal noted Dr Labib's oral evidence and considered that he was earnest in his expressions of regret and remorse. In the Tribunal's view, Dr Labib fully understood the gravity of his past misconduct.

44. The Tribunal considered that Dr Labib had demonstrated to it that he had fully invested in his remediation. It was clear to the Tribunal that Dr Labib has reflected on the inappropriateness of his behaviour in applying pressure on Patient A to withdraw his complaint, notwithstanding his initial reasonings for his actions.

45. The Tribunal found that Dr Labib had fully addressed all of the concerns raised about his record keeping and had evidenced this by the information provided about the processes he has put in place. The Tribunal noted the Peer Group that Dr Labib set up with Drs E, B and C and with whom he meets regularly and who provided positive testimonials with the details of their interactions with him. It also noted that Dr Labib has employed more clinicians to share the workload and to allow him to concentrate on his role at the clinic. The Tribunal noted and placed weight on the positive appraisal from Dr D, who was an experienced appraiser. It noted that it had not been incumbent on Dr Labib to undertake appraisal during his suspension, but he had taken this welcome step on his own initiative.

46. The Tribunal is satisfied that Dr Labib has now sufficiently developed insight into his past misconduct and has demonstrated that he has fully remediated it. The Tribunal was impressed by Dr Labib's comprehensive analysis of GMP. The Tribunal found it highly unlikely that Dr Labib would repeat the deficiencies in his record keeping and it was satisfied that he would adhere to the principles in GMP in the future. The Tribunal also found that it is highly unlikely that Dr Labib will repeat his misconduct given the safeguards he has put in place, his reflection and the extensive remediation he has undertaken.

47. The Tribunal considered that the period of suspension has allowed Dr Labib to remediate and to put in place robust systems to address the deficiencies identified to ensure patient safety. The Tribunal also considered that the need to mark Dr Labib’s previous misconduct by the original order of suspension, in order to maintain public confidence in the profession and to maintain proper professional standards had been met at this time.

48. This Tribunal therefore determined that Dr Labib’s fitness to practise is no longer impaired by reason of misconduct. The Tribunal noted that Dr Labib’s suspension is due to expire on 17 December 2022. Having found Dr Labib’s fitness to practise is not currently impaired, and in the light of the extensive remediation he has undertaken, the Tribunal determined that the suspension be revoked with immediate effect.

49. That concludes this case.