

PUBLIC RECORD

Date: 02/08/2024

Medical Practitioner's name: Dr Chain KAI
GMC reference number: 7770318
Primary medical qualification: MBBS 2019 University of Medicine 2 Yangon

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

Summary of outcome
Suspension to expire

Tribunal:

Legally Qualified Chair	Mrs Becky Miller
Lay Tribunal Member:	Mrs Valerie Paterson
Medical Tribunal Member:	Dr Fade Ibitoye
Tribunal Clerk:	Ms Hinna Safdar

Attendance and Representation:

Medical Practitioner:	Present, not represented
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 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 - 02/08/2024

Background

1. Dr Kai qualified in 2019 with a Bachelor of Medicine, and Bachelor of Surgery (MBBS) from the University of Medicine 2, Yangon (Myanmar). Dr Kai came to the United Kingdom (UK) and completed The Professional and Linguistic Assessment 2 (PLAB 2) in March 2022. Dr Kai registered with the General Medical Council (GMC) and was granted full registration on 14 April 2022. Subsequently, he started to apply for jobs within the NHS and completed his clinical attachment at the Queen Elizabeth Hospital, Birmingham from May 2022 to June 2022.
2. The facts found proved at Dr Kai's hearing which took place in March 2024 can be summarised as that between 1 January 2022 and 13 July 2022, Dr Kai submitted a job application form to Barnsley Hospital NHS Foundation Trust, which contained plagiarised information which was untrue regarding his professional experience. Also on 11 July 2022, Dr Kai submitted a CV to NHS Professionals which also contained plagiarised information regarding his professional experience which was untrue. Dr Kai's actions were found to be dishonest.
3. The March 2024 Tribunal determined that Dr Kai's actions amounted to serious misconduct and that his fitness to practise was impaired by reason of this serious misconduct. The March 2024 Tribunal considered that under no circumstances was plagiarism acceptable. It determined that Dr Kai's conduct breached the fundamental tenets of the medical profession and brought the profession into disrepute. Further, the March 2024 Tribunal was satisfied that a four-month suspension of Dr Kai's registration would send a clear message to Dr Kai, the profession, and the wider public that dishonesty inevitably amounts to behaviour unbecoming a registered medical practitioner and will always be taken seriously.
4. The March 2024 Tribunal considered that a reviewing Tribunal would be assisted by the following:

- Dr Kai should have fortnightly meetings with his mentor Dr A focussing on discussions which they should have on probity and ethics in his working environment;
- Dr Kai should provide a report from his mentor Dr A confirming these meetings and their content and Dr Kai's progress in understanding and demonstrating probity and ethics;
- Dr Kai should consider relevant literature on probity and ethics within the medical profession with a particular emphasis on plagiarism and evidences any reading of and reflection on such material;
- Dr Kai should continue with his community engagement with junior doctors in which he shares the benefit of his experience in the UK and the importance of avoiding plagiarism and acting with integrity and probity;
- Dr Kai should provide a reflective statement to include his understanding of his actions and the impact his actions had on the medical profession, colleagues, patients and the public's confidence in the profession.

Today's hearing

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

The Evidence

6. The Tribunal has taken into account the written evidence and received submissions from both GMC Counsel and Dr Kai.

7. The Tribunal received documentary evidence including:

- Record of Determination of the MPT hearing, dated 11-20 March 2024
- New papers to be presented to the MPT review hearing on 2 August 2024
- MPTS notification of MPT outcome and appeal period, dated 20 March 2024
- Expiry of appeal period letter to Dr Chain Kai, dated 22 April 2024
- Email correspondence with Dr Chain Kai confirming email address, dated 25 April 2024
- Case Introduction letter to Dr Chain Kai, dated 25 April 2024 sent 1 May 2024
- MPTS hearing listing notification letter to Dr Chain Kai, dated 2 May 2024

- Email correspondence from Dr Chain Kai enclosing documents for final hearing bundle, dated 25 June 2024
- Reflective statement of Dr Chain Kai
- Letter from Dr A confirming mentorship agreement with Dr Chain Kai, dated 29 April 2024
- Apology letter to Barnsley Hospital, dated 17 May 2024
- Apology letter to Kirkaldy Hospital, dated 17 May 2024
- MPTS correspondence with Dr Chain Kai regarding giving evidence abroad
- Email correspondence from Dr Chain Kai enclosing further documents for final hearing bundle, dated 3 July 2024
- Report from Dr A, dated 1 July 2024
- Testimonial from Dr B
- Testimonial from Dr C
- Probity & Ethics in Healthcare with Integrity Part 1 course completion certificate
- Index to the MPT Review hearing bundle General Medical Council
- Volunteer certificate and translation
- Multisource feedback form
- Community Engagement report
- PowerPoint slides used in community engagement
- Presentation feedback from juniors
- Translated patient feedback form

Submissions

On behalf of the GMC

8. Mr Lewis Kennedy referred the Tribunal to the decision of the March 2024 Tribunal, that concluded a four-month suspension was the appropriate duration for a sanction to reflect the gravity of Dr Kai's dishonest conduct. It was intended to allow Dr Kai sufficient time to gain full insight into his actions. The previous Tribunal stated that the onus would be on Dr Kai to demonstrate how he had developed insight and remediated the misconduct. Mr Kennedy submitted that the March 2024 Tribunal indicated it might be helpful for Dr Kai to have fortnightly meetings with his mentor, Dr A, focusing on discussions about probity and ethics in his working environment. If Dr Kai provided a report from his mentor confirming these meetings and their contents, along with Dr Kai's progress in understanding and demonstrating probity and ethics, it would be beneficial. Additionally, Dr Kai should consider relevant literature on probity and ethics within the medical profession, with an emphasis on

plagiarism, and provide evidence of his reading and reflection on such material. Continued community engagement with junior doctors, where he shares the benefits of his experience in the UK and the importance of avoiding plagiarism and acting with integrity and probity, would also be helpful. A reflective statement from Dr Kai, including his understanding of his actions and their impact on the medical profession, colleagues, patients, and public confidence, along with any other relevant evidence he wishes to present, would further assist the Tribunal.

9. On 3 July 2024, Dr Kai provided the GMC with further documents, including a letter from his mentor, Dr A, confirming their meetings and their content, along with their opinion regarding Dr Kai's progress in understanding and demonstrating probity and ethics. Mr Kennedy set out that the information provided also included: reports from Dr A; testimonials from Dr B and Dr C ; a course completion certificate on probity and ethics in healthcare with integrity; a volunteer certificate for providing field medicine in rural areas of Myanmar; a patient feedback form; a multisource feedback form; a reflective statement from Dr Kai on community engagement; PowerPoint slides from the community engagement projects; a presentation from PLAB and presentation feedback from junior doctors.

10. Mr Kennedy submitted that the issue for this reviewing Tribunal to consider is whether Dr Kai's fitness to practise is still impaired by reason of his misconduct. The matter of current impairment necessarily includes whether Dr Kai has demonstrated appropriate insight regarding his misconduct and impairment issues. According to paragraph 46 of the Sanctions Guidance 2024 ('SG'), a doctor is likely to have insight if they accept they should have behaved differently, show empathy and understanding, take timely steps to remediate, apologise early, and demonstrate the timely development of insight during the investigation and hearing. Mr Kennedy submitted that the onus remains on Dr Kai to demonstrate how he has fully remediated since the substantive hearing.

11. Mr Kennedy submitted that the emphasis is on remediation and insight, particularly whether Dr Kai has demonstrated appropriate insight regarding both the misconduct and impairment issues. He stated that the Tribunal should focus on what Dr Kai has done since the initial hearing to remediate his misconduct. Dr Kai has produced an extensive body of evidence covering all aspects of remediation requested by the Tribunal and has gone above and beyond to ensure the GMC received all evidence in time for the review hearing. Testimonials from Dr B and Dr C speak very positively about him, describing him as kind, active, optimistic and always ready to help. They have witnessed Dr Kai's deep remorse for his actions and his active sharing of his experience with others, attesting to his commitment

to learning from his mistakes and preventing similar issues in the future. They are hopeful he will continue his growth and return to serve the NHS.

12. Mr Kennedy referred to the progress report from Dr Kai's mentorship with Dr A in which it is stated that Dr Kai has engaged in reflective practice, with decisions aligning with ethical standards. Mr Kennedy added that Dr Kai's reflective statement shows a deep understanding of his misconduct and its impact, marking a significant improvement in his professional behaviour, demonstrating a strong commitment to honesty, integrity, and ethical practice. Dr Kai has actively participated in discussions and exercises and is eager to apply ethical practices in his work, showing dedication to learning and improvement. Dr A confirmed that Dr Kai has expressed genuine remorse for his past actions and is committed to continuous ethical improvement and rebuilding trust within the medical community.

13. Mr Kennedy submitted that Dr Kai's new reflective statements encapsulate his remediation efforts. His reflective statement on community engagement describes how he has actively engaged with junior doctors by making presentations and sharing his PLAB experiences and lessons learned. These engagements aim to underscore the significance of integrity and the risks associated with plagiarism, cultivating a culture of ethical conduct and professionalism among emerging medical professionals. Dr Kai acknowledged that his actions, specifically plagiarism and misrepresentation of his experience on his CV, were serious breaches of the ethical standards expected of a medical professional. He admitted these actions were dishonest and fundamentally incompatible with the values of integrity, trust, and probity essential in the medical field.

14. Mr Kennedy submitted that Dr Kai stated that he has deeply reflected on his behaviour and its implications, understanding that his dishonesty was not just a lapse in judgment but a serious ethical failure. He acknowledged that such behaviour undermines the foundation of trust upon which the medical profession is built. His misconduct has negatively impacted the medical profession, jeopardizing his reputation and contributing to the erosion of public trust. Mr Kennedy submitted that Dr Kai appears to be committed to practising with utmost honesty and integrity, engaging in ethical education, seeking guidance from mentors, and participating in reflective practice to ensure exemplary professional conduct. He is dedicated to rebuilding trust and demonstrating his commitment to ethical excellence.

15. Mr Kennedy submitted that Dr Kai's extensive body of evidence covers all aspects requested by the Tribunal and could be deemed satisfactory. Accordingly, the GMC's position on impairment is neutral. The final decision on impairment is for this reviewing Tribunal to

determine, based on Dr Kai's new reflective statements and documentary evidence, whether he has developed sufficient insight and appropriately remediated to the necessary degree. Mr Kennedy reminded the Tribunal that it must consider Dr Kai's fitness to practise today, taking into account his misconduct, prior findings, and any relevant factors since then, including remediation efforts and the likelihood of repetition. The Tribunal should apply the approach to impairment set out in previous case law, determining whether Dr Kai's fitness to practise remains impaired based on his insight, remediation, and the potential risk of future misconduct. The onus is on Dr Kai to persuade the Tribunal that it is safe for him to return to practise. In conclusion, Dr Kai has shown regret and remorse for his actions, provided substantial evidence of remediation, and received positive reports from mentors and patients. The decision on his fitness to practise rests with this Tribunal.

Dr Kai

16. Dr Kai read out his written submissions. He submitted that he was grateful to the GMC and the Tribunal for guiding him through this challenging experience, which has been both a wake-up call and a significant learning journey for him. Dr Kai acknowledges that he previously engaged in dishonest behaviour, specifically plagiarism, which is completely unbecoming of a registered medical practitioner. He takes full responsibility for his actions and deeply regrets the impact they had on his colleagues, patients, and the profession as a whole. In hindsight, Dr Kai realised how these actions violated the trust placed in him and undermined the integrity of the medical community. Dr Kai submitted that this experience has profoundly changed his understanding of what it means to be a doctor, and he is committed to upholding the highest ethical standards moving forward.

17. Through this process, Dr Kai submitted that he has developed deep insight into his past misconduct. He now understands that, no matter the circumstances, breaking the fundamental tenets of the medical profession is never acceptable. This understanding has become a guiding principle in Dr Kai's professional life, ensuring that he never repeats the mistakes of his past. Dr Kai stated that he has learnt and now deeply appreciates the paramount importance of honesty, transparency, and accountability in all aspects of medical practice. Dr Kai submitted that this realisation has been pivotal in his journey and has transformed how he approaches his work and interacts with others in the profession.

18. Since his suspension, Dr Kai submitted that he has taken concrete steps to address his shortcomings and ensure they do not recur. He has engaged in professional training, completing courses on ethics and professionalism, which equipped him with the knowledge and tools to handle ethical dilemmas effectively. Dr Kai submitted that these courses have

reinforced his understanding of the principles of integrity and honesty that are foundational to the medical profession. Through mentorship and reflection, Dr Kai submitted that he has engaged regularly with mentors who have guided him in understanding and applying ethical principles in his practice. These sessions have helped him reflect on his past behaviour and develop strategies to ensure it does not happen again.

19. Dr Kai submitted that recognising that stress was a significant factor in his past behaviour, he has since developed strategies to manage stress more effectively. This includes seeking support from mentors and colleagues whenever he faces ethical dilemmas, ensuring he makes informed and principled decisions. Dr Kai submitted that he is committed to continuous professional development, regularly attending workshops and engaging in learning activities that focus on ethics, communication, and professional integrity. Through community engagement, he shares his experiences and the lessons learned with junior doctors, emphasising the importance of integrity and the consequences of unethical behaviour. Dr Kai submitted that his goal is to contribute to a culture of honesty and professionalism amongst future medical professionals.

20. Dr Kai submitted that he believes through these efforts, he has demonstrated his readiness to return to unrestricted practice. Dr Kai stated that he is fully committed to upholding the highest ethical standards of behaviour in his profession. He added that his mentors and colleagues have noted his commitment to ethical practice and professional growth, recognising his ability to contribute positively to the medical community. Dr Kai assured the Tribunal that he is now better equipped to handle ethical challenges and is dedicated to providing safe, competent, and ethical care to his patients. His goal is to rebuild the trust that he has lost and to demonstrate his commitment to serving the community with integrity and professionalism.

21. Dr Kai requested the Tribunal to consider the steps he has taken and the insight he has gained when evaluating his fitness to return to practise. He added that he is eager to continue serving the community and contributing positively to the medical profession.

The Relevant Legal Principles

22. 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 they would be safe to return to unrestricted practice.

23. This Tribunal must determine whether Dr Kai's fitness to practise is impaired today, taking into account Dr Kai's 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.

The Tribunal's Determination on Impairment

Misconduct

24. The Tribunal considered whether Dr Kai has remediated and shown insight into the misconduct found during the March 2024 Tribunal. The Tribunal took into account submissions from both GMC Counsel and Dr Kai.

25. The Tribunal has considered what steps Dr Kai has taken to remediate the misconduct. The Tribunal had sight of Dr Kai's reflective statement and feedback forms from his patients and mentors. It was satisfied that Dr Kai has reflected on the gravity of his misconduct, including the impact of that misconduct on his colleagues, the public and the profession and has developed full insight into these matters. Further, Dr Kai has been working with junior doctors, with whom he has shared his experience with his regulator and has emphasised the importance of working with integrity. The Tribunal noted that he had written letters of apology and remorse (sent via email) to both the recipients of his plagiarised material.

26. The Tribunal determined that Dr Kai has made significant effort to address his misconduct and was particularly impressed with Dr Kai's undertaking of the training courses, which he initially indicated would be difficult for him to complete due to financial difficulties. Despite his financial situation, he made the effort to complete this training.

27. The Tribunal was satisfied that there has been no repetition of the misconduct that led to the initial hearing and that Dr Kai has taken sufficient steps to remediate the misconduct. The Tribunal is, therefore, satisfied that there is little risk of repetition of the behaviour that was the subject of the March 2024 hearing.

28. The Tribunal has noted that Dr Kai has continued to practise medicine in Myanmar and therefore his skills and clinical knowledge have been kept up to date.

29. This Tribunal has therefore determined that Dr Kai’s fitness to practise is no longer impaired by reason of misconduct.

Determination on Warning - 02/08/2024

30. As the Tribunal determined that Dr Kai’s fitness to practise was not impaired by reason of misconduct, it considered whether in accordance with s35D(3) of the 1983 Act, a warning was required.

Submissions

On behalf of the GMC

31. Mr Kennedy submitted that the GMC was neutral on the issue of a warning.

32. Mr Kennedy added that the Tribunal should allow the suspension currently in place to run until it expires on 21 August 2024.

Dr Kai

33. Dr Kai submitted that he did not think any warning should be imposed. He added that he would not object if the current suspension was left to expire or if it was revoked immediately.

The Tribunal’s Determination on Warning

34. The Tribunal had regard to the overarching objective, as well as the particular circumstances of this case, and applied the principle of proportionality, weighing the interests of the public with those of Dr Kai. The Tribunal bore in mind that the reputation of the profession as a whole is more important than the interests of any individual doctor.

35. The Tribunal had regard to paragraph 61 of the Sanctions Guidance (5 February 2024) (SG) which provides:

‘Where a Tribunal finds a doctor’s fitness to practise is not impaired, it cannot impose a sanction. However, it must consider under Rule 17(2)(n) whether to:
a. take no action

b. issue a warning if the doctor’s conduct, behaviour or performance has significantly departed from the guidance in Good Medical Practice’.

36. The Tribunal considered the *Guidance on warnings 2024*, in particular paragraphs 13, 16, 20 and 32, which state:

‘13 Although warnings do not restrict a doctor’s practice, they should nonetheless be viewed as a serious response, appropriate for those concerns that fall just below the threshold for a finding of impaired fitness to practise.

16 A warning will be appropriate if there is evidence to suggest that the practitioner’s behaviour or performance has fallen below the standard expected to a degree warranting a formal response by the GMC or by a MPTS tribunal. A warning will therefore be appropriate in the following circumstances:

- *there has been a significant departure from Good medical practice, or*
- *there is a significant cause for concern following an assessment of the doctor’s performance.*

20 The decision makers should take account of the following factors to determine whether it is appropriate to issue a warning.

a There has been a clear and specific breach of Good medical practice or our supplementary guidance.

b The particular conduct, behaviour or performance approaches, but falls short of, the threshold for the realistic prospect test or in a case before a tribunal, that the doctor’s fitness to practise has not been found to be impaired.

c A warning will be appropriate when the concerns are sufficiently serious that, if there were a repetition, they would likely result in a finding of impaired fitness to practise. Warnings may be an appropriate response to any type of allegation (subject to the comments in paragraph 7 regarding cases solely relating to a doctor’s health); the decision makers will need to consider the degree to which the conduct, behaviour or performance could affect patient care, public confidence in the profession or the reputation of the profession. If the decision makers consider that a warning is appropriate, the warning should make clear the potential impact of the conduct, behaviour or performance in question, accordingly.

d There is a need to record formally the particular concerns (because additional action may be required in the event of any repetition).

32 *If the decision makers are satisfied that the doctor's fitness to practise is not impaired or that the realistic prospect test is not met, they can take account of a range of factors to determine whether a warning is appropriate. These might include:*

a the level of insight into the failings

b a genuine expression of regret/apology

c previous good history

d whether the incident was isolated or whether there has been any repetition

e any indicators as to the likelihood of the concerns being repeated

f any rehabilitative/corrective steps taken

g relevant and appropriate references and testimonials.'

37. The Tribunal went on to consider each of paragraphs 32(a)- 32(f) of the Guidance on Warnings. The Tribunal has previously found that Dr Kai has good insight and has expressed genuine regret; that there has been no repetition of the conduct; that there is a very low risk of repetition; Dr Kai has engaged fully with the disciplinary process and has taken corrective steps to ensure that the findings made are not repeated.

38. In the present case, the Tribunal had determined that Dr Kai was no longer impaired. The Tribunal concluded that it would be disproportionate to impose a warning in this case and the circumstances of this case do not warrant a formal response. It therefore determined it would not be appropriate to issue a warning.

39. The Tribunal notes that the currently imposed order of suspension is due to expire on 21 August 2024. The Tribunal considered that with reference to the findings and the overarching objective, it would be in the public interest for the current suspension to continue until the date it expires.

40. That concludes the case.