

PUBLIC RECORD

Date: 20/10/2022

Medical Practitioner's name: Dr Farina SHEIKH

GMC reference number: 7544952

Primary medical qualification: Doctor - Medic 2015 Universitatea din Oradea

Type of case	Outcome on impairment
Review - Misconduct	Not Impaired

Summary of outcome
Suspension to expire

Tribunal:

Legally Qualified Chair	Mr Kamran Choudhry
Lay Tribunal Member:	Ms April Marland
Medical Tribunal Member:	Dr Marta Babores Raset

Tribunal Clerk:	Mr Rowan Barrett
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Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr David Welch, Counsel
GMC Representative:	Ms Shirley McKenna, 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 - 20/10/2022

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

Background

2. Dr Sheikh qualified in 2015 with a Doctor – Medic from the Universitatea din Oradea in Romania. Dr Sheikh obtained full registration with the General Medical Council ('GMC') in September 2016 and commenced employment as a Foundation Year 1 doctor at Aintree University NHS Foundation Trust ('the Trust'). At the time of her self-referral, Dr Sheikh was practising as a Foundation Year 2 doctor on the Emergency General Surgery Unit at Aintree Hospital ('the Hospital.')

3. Dr Sheikh's hearing took place in October 2021. At that hearing, a differently constituted Tribunal ('2021 Tribunal') found proved that Dr Sheikh had failed to disclose that she had been convicted in April 2012 in Romania of a criminal offence that involved her 'being concerned in supplying controlled drugs.' It was also found proved that Dr Sheikh provided false information to the Trust and the GMC regarding the details of her conviction, namely she sought to say that she passed money with no knowledge that it was connected to a drugs transaction, when in fact she had been directly involved in drugs transactions. It was also found proved that she failed to disclose her conviction to the GMC until 15 January 2018 and maintained a false position as to the facts of her conviction. The 2021 Tribunal found that these actions were dishonest.

4. The 2021 Tribunal was of the view that, while Dr Sheikh had breached a fundamental tenet of the profession through her dishonesty, her remorse was genuine and she now

‘understands that honesty is at the heart of the medical profession.’ It found that Dr Sheikh had provided good evidence of her reflection and insight and had demonstrated some remediation by ‘actively pursuing an honest path’ in the years since the dishonesty took place. In particular, the Tribunal notes that the 2021 Tribunal determined that Dr Sheikh:

- ‘deeply regret[ed] her actions and the trouble it has caused the GMC and [her] employer’;
- ‘recognised that she has breached a fundamental tenet of the medical profession’; and
- Had ‘apologised in her oral evidence to the Tribunal [and that in the view of the Tribunal the] apology was genuine’.

5. However, the 2021 Tribunal considered that Dr Sheikh had not provided any evidence of substantive reflection about what led to her misconduct. The 2021 Tribunal also considered that Dr Sheikh had ‘not evidenced completion of courses relevant to honesty and integrity’. The 2021 Tribunal concluded that it was ‘difficult to calculate any future risk of repetition until Dr Sheikh acknowledge[d] what led her to withhold her conviction and mislead her Clinical Supervisor and the GMC as to the facts of her Conviction’. It found that Dr Sheikh’s insight was still developing and that whilst the risk of repetition of similar misconduct was not high, some risk of repetition remained.

6. The 2021 Tribunal imposed a period of 12 months suspension. It considered that a future reviewing Tribunal would be assisted by:

- Evidence that she has reflected on the Tribunal’s findings and developed insight into her failings;
- Evidence of completion of courses relevant to honesty and integrity;
- Evidence of her reflections as to what led her to her dishonest acts;
- Evidence of her reflections as to how she would avoid any future risk of repetition;
- Evidence that she has kept her medical knowledge and skills up to date; and
- Any other relevant evidence that Dr Sheikh considers will assist the reviewing tribunal.

The Evidence

7. The Tribunal has taken into account all the evidence received. Dr Sheikh did not give oral evidence.

8. Dr Sheikh provided a comprehensive reflective statement in relation to matters that led her to come before the Tribunal. She also provided reflective statements in relation to courses she had taken following the 2021 Tribunal's determination.
9. The Tribunal received documentary evidence which included but was not limited to:
- Certificate of completion of a 1-1 Ethics Course, dated 16 September 2022, and further reflective statement produced by Dr Sheikh on completion of that course;
 - Evidence of completion of a large number of CPD courses including Dr Sheikh's reflections on completion of these courses; and
 - Team Assessment of Behaviour forms relating to employment positions that Dr Sheikh had secured.

Submissions

10. On behalf of the GMC, Ms McKenna submitted that Dr Sheikh had provided evidence of remediation in line with what was requested by the 2021 Tribunal. She noted that Dr Sheikh had provided comprehensive evidence of CPD and efforts to keep her knowledge and skills up to date. In response to a question from the Legally Qualified Chair, Ms McKenna clarified that the GMC was neutral on the question of whether Dr Sheikh's fitness to practise was currently impaired.

11. On behalf of Dr Sheikh, Mr Welch submitted that Dr Sheikh had taken significant steps to demonstrate that she had fully remediated and had full insight into her behaviour. He submitted that her fitness to practise was no longer impaired. He submitted that she had addressed all six suggestions identified by the 2021 Tribunal as being of potential assistance to this Tribunal. Mr Welch submitted that Dr Sheikh had 'learned a very hard lesson'. He told the Tribunal that Dr Sheikh has provided detailed evidence of completion of courses relevant to honesty and integrity and reflected on the factors which led to her dishonesty. He submitted that Dr Sheikh had not appealed the 2021 Tribunal's determination and that this was evidence of insight and her acceptance. He submitted that Dr Sheikh's suspension 'come to end with immediate effect'. In response to a question from the Tribunal, Mr Welch submitted that the prospect of Dr Sheikh repeating similar behaviour in future was low.

12. Mr Welch also informed the Tribunal that Dr Sheikh's last day of working as a doctor was in or around 1 October 2021.

The Relevant Legal Principles

13. The Tribunal reminded itself that the decision of impairment was a matter for the Tribunal exercising its own independent judgement alone. The Tribunal was reminded of paragraph 48 of the 2021 Tribunal's determination which identified six suggestions that might assist this Tribunal. The Tribunal was advised that it was not limited or bound by the 2021 Tribunal's suggestions and may consider any other factors that are relevant.

14. This Tribunal was further reminded that it had to determine whether Dr Sheikh's fitness to practise was impaired today, taking into account Dr Sheikh'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.

15. The Tribunal further had regard to paragraphs 163 and 164 of the Sanctions Guidance ('SG').

The Tribunal's Determination on Impairment

Medical Knowledge and Skills

16. The Tribunal first considered whether Dr Sheikh had kept her medical knowledge and skills up to date. In this regard, Dr Sheikh last worked as a doctor in or around 1 October 2021.

17. The Tribunal had regard to the evidence of CPD which Dr Sheikh had undertaken in the 12 months that have elapsed since her last post as a doctor. The Tribunal considered that the range of courses was comprehensive and included both clinical and non-clinical topics. It further considered that Dr Sheikh had genuinely engaged with various courses and that this was evidenced by reflective statements she had made after taking the courses. The Tribunal concluded that Dr Sheikh had taken concrete steps to keep her medical knowledge and skills up to date and that she was not in danger of having become deskilled during the period of suspension.

Dishonesty

18. The Tribunal recalled that the 2021 Tribunal determined that it was difficult to assess the ‘future risk of repetition’ at that stage. The Tribunal considered the written reflections provided by Dr Sheikh which it determined to be comprehensive and genuine. It determined that Dr Sheikh had reflected on what led to her dishonest acts. For example, Dr Sheikh explained in her reflective statement that she had been ‘frightened to declare [her] conviction.....[she] was scared to let [her] family down’.

19. The Tribunal also accepted Dr Sheikh’s reflections and submissions made on her behalf by Mr Welch as to how she would avoid the risk of repeating similar conduct. In this regard, the Tribunal noted examples provided by Dr Sheikh in her statement of her acting honestly and with integrity in her places of work during the period of suspension. The Tribunal considered it significant that Dr Sheikh’s recent colleagues and supervisors expressed confidence in her honesty and integrity notwithstanding these proceedings.

20. The Tribunal also considered evidence of Dr Sheikh’s insight and whether it had further developed since the 2021 Tribunal’s determination. The Tribunal determined that Dr Sheikh’s reflective statement demonstrated how fully her insight had evolved. Dr Sheikh apologised again and made the following statements in relation to dishonesty:

‘Although I have apologised orally, I would like to apologise again for my unprofessional, unethical actions, the trouble they have caused and for failing to maintain public confidence in the medical profession and to promote and maintain proper professional standards as set out in GMP and other codes of ethics. Professionalism entails establishing good relationships with colleague and with the regulator. It requires honesty, trustworthiness and acting with integrity and within the law. I have failed to satisfy these components by acting unprofessionally.

Dishonesty is not acceptable in any aspect of life and I let my emotions cloud my judgement resulting in my dishonest acts. With the benefit of hindsight, what I did was both wrong and serious. I take full responsibility. I am the only one accountable for my wrongdoing and will never repeat these dishonest actions in the future. Going forward I will be vigilant and not let emotions take over in the future. If I ever face a similar situation again, I will take a step back, stay connected with my colleagues/supervisors/regulators and indemnity providers, and most of all I will be honest. ‘

21. The Tribunal considered that Dr Sheikh’s written reflections demonstrated that she had reflected deeply on the seriousness of her misconduct and accepted full responsibility for her actions. This is complimented by evidence of courses on ethics undertaken by Dr Sheikh.

22. The Tribunal concluded that this body of evidence was sufficient to establish that Dr Sheikh now had full insight into her wrongdoing. The Tribunal agreed with the assessment of the 2021 Tribunal that Dr Sheikh’s remorse was genuine and that she understands the importance of honesty for members of the medical profession.

23. The Tribunal further considered that that Dr Sheikh had taken all suggested steps asked of her by the 2021 Tribunal during her period of suspension. The Tribunal was satisfied, therefore, that Dr Sheikh had done everything possible to remediate her misconduct. In the circumstances, the Tribunal considered that the risk of Dr Sheikh repeating similar misconduct in the future was low.

24. The Tribunal considered that in this particular case, a reasonable and well-informed member of the public would be satisfied that Dr Sheikh had developed substantial insight into her misconduct and had taken significant steps to remediate.

25. The Tribunal determined that Dr Sheikh’s fitness to practise was not impaired by reason of misconduct. Moreover, it was satisfied that public confidence in the medical profession, and the maintenance of standards for members of the profession, no longer require a finding of impaired fitness to practise.

26. The Tribunal next considered Mr Welch’s submission that Dr Sheikh’s “suspension come to an end with immediate effect”. It noted that the 2021 Tribunal imposed a twelve month suspension which it was informed expired on 15 November 2022.

27. The Tribunal recalled that the 2021 Tribunal considered that the period of twelve months was required in order “to demonstrate how [Dr Sheikh’s] dishonesty, that had the potential to undermine her regulator, demands serious action”. The 2021 Tribunal further imposed the suspension in accordance with the overarching objective 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.

28. The Tribunal determined that to accede to Dr Sheikh's request that her suspension come to an end with immediate effect would, in this instance, be contrary to the overarching objective. Rather, it determined that the suspension continue until its expiry in order to meet the statutory overarching objective in this case.

29. That concludes the case.