PUBLIC RECORD

Dates: 16/05/2023 - 22/05/2023

Medical Practitioner's name:	Dr Julia PIPER
GMC reference number:	2637833
Primary medical qualification:	BM BS 1980 University of Nottingham

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Impaired

Summary of outcome

Suspension, 9 months.
Review hearing directed

Tribunal:

Legally Qualified Chair	Mr Andrew Lewis
Lay Tribunal Member:	Mrs Ann Bishop
Medical Tribunal Member:	Dr Alan Shepherd

Tribunal Clerk:	Mr Mark Hibbert (16 May 2023) Mr Joel Taylor

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Ms Rosalind Scott-Bell, Counsel, instructed by DWF Law
GMC Representative:	Mr Peter Horgan, 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 Facts and Impairment - 19/05/2023

1. This determination will be handed down in private. However, as this case concerns Dr Piper's misconduct, a redacted version will be published at the close of the hearing.

Background

2. Dr Piper qualified in 1980 from the University of Nottingham and, at the relevant times, was practising as a GP in her own private practice, which she established in 1995.

3. The Allegation that has led to Dr Piper's hearing can be summarised as concerns relating to prescribing, communications with other doctors and probity. She is alleged to have prescribed medications for herself on 18 occasions over a four year period, for Patient A (XXX), on 33 occasions over 13 years and Patient B (XXX) on 31 occasions over 17 years. The drugs prescribed include XXX, XXX and XXX.

4. It is further alleged that Dr Piper did not inform either Patient A's or B's NHS GP of what she had done and stated in five separate appraisals between 2015 and 2021 that she did not prescribe for herself or her family, or words to that effect.

5. The initial concerns were raised with the GMC on 22 November 2021 by Dr C, Dr Piper's Responsible Officer ('RO'). The referral to the GMC came about because of an inspection by the Care Quality Commission ('CQC'), led by Mr D, which found irregularities in Dr Piper's dispensing book. This assessment had been undertaken with Dr Piper's agreement as she was seeking to offer medicinal cannabis.

The Allegation and the Doctor's Response

6. The Allegation made against Dr Piper is as follows:

   That being registered under the Medical Act 1983 (as amended):

   1. Between 2017 and 2021 on one or more occasion you prescribed medication for yourself, as set out in Schedule 1. **Admitted and found proved**

   2. Between 2008 and 2021 on one or more occasion you prescribed medication for Patient A, as set out in Schedule 2. **Admitted and found proved**

3. Between 2004 and 2021 on one or more occasion you prescribed medication for Patient B, as set out in Schedule 3. Admitted and found proved

4. You failed to inform:

   a. Patient A's GP of your actions as set out at paragraph 2; Admitted and found proved

   b. Patient B's GP of your actions as set out at paragraph 3. Admitted and found proved

5. On 23 September 2015 during your appraisal you stated that you do not prescribe for your family, or words to that effect. Admitted and found proved

6. On 28 September 2017 during your appraisal you stated that you do not self-prescribe, or words to that effect. Admitted and found proved

7. On 12 September 2018 during your appraisal you stated that you do not self-prescribe, or words to that effect. Admitted and found proved

8. On 4 October 2019 during your appraisal you stated that you do not self prescribe, or words to that effect. Admitted and found proved

9. On 10 September 2021 during your appraisal you stated that you do not:

   a. self-prescribe, or words to that effect; Admitted and found proved

   b. treat friends and family, or words to that effect. Admitted and found proved

10. You knew that the information you provided at paragraphs 5, 6, 7, 8 and 9a-b was untrue. Admitted and found proved

11. Your actions at paragraphs 6, 7, 8 and 9a were dishonest by reason of paragraphs 1 and 10. Admitted and found proved

12. Your actions at paragraphs 5 and 9b were dishonest by reason of paragraphs 2 and/or 3 and 10. Admitted and found proved

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct. To be determined

The Admitted Facts

7. At the outset of these proceedings, through her counsel, Ms Rosalind Scott-Bell, Dr Piper made admissions to the entirety of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

8. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts as admitted, Dr Piper's fitness to practise is impaired by reason of misconduct.

Witness Evidence

9. The Tribunal received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were not called to give oral evidence:

- Dr E, GP appraiser, dated 22 April 2022;
- Mr D, CQC investigator, dated 22 September 2022; and
- Dr C, Dr Piper's RO, dated 5 December 2022 and 3 March 2023.

10. Dr Piper provided her own witness statement dated 10 March 2023 and a reflective piece dated "July 2022 – March 2023". She also gave oral evidence at the hearing. In her evidence, Dr Piper told the Tribunal that she accepted that her fitness to practise was currently impaired.

11. Dr Piper told the Tribunal about the difficult personal circumstances that she had experienced, including severe personal and family health problems, and how this had resulted in her feeling overloaded at times. XXX. She told the Tribunal that she had prescribed for herself XXX for a variety of reasons, including feeling a need for speedy treatment, but also for convenience. Dr Piper could not confirm that she had read *Good Medical Practice (2013)* ('GMP') before 2018, but did tell the Tribunal that, although she qualified in an era when self-prescribing was not such a problem, she had known that it was wrong to do so, particularly at the time of the appraisals in 2015 and later. However, Dr Piper said that she had not had a full understanding of the risks of prescribing for family members and the importance of avoiding doing so.

12. Dr Piper acknowledged that she should have communicated with the GPs of both Patient A and B and informed them of the medications that she had prescribed but told the Tribunal that she felt like she had already declared what she was prescribing because it was recorded in the dispensing book at her Practice.

13. Dr Piper told the Tribunal that she had not had a full understanding of what the appraisal process was for or its importance. She said that she had felt that the appraisal process was a supporting process where she could raise issues rather than forming a part of regulatory procedure. She told the Tribunal that she had built "a construct" around her

prescribing practices that meant that they were acceptable and so she didn't need to declare it at her appraisals. This construct included a belief that she wasn't prescribing regularly and that the medications she did prescribe were not dangerous. She said that she thought that prescribing for her family wasn't important to raise unless it was for dangerous drugs.

14. Dr Piper told the Tribunal that she has since come to understand the dangers of prescribing for herself and her family, particularly without informing their NHS GPs, because of the risks of unexpected drug interactions and poor management of treatments.

15. Dr Piper said that the CQC investigation had lifted a weight from her by uncovering the issues that led to this hearing. She said that she was grateful to the CQC for supporting her to improve her Practice. She also told the Tribunal about the learning that she had undertaken in probity and ethics and how impactful that had been on her and her approach to medicine, including leading to her volunteering more information to the investigation about her prescribing for herself and Patients A and B.

16. Dr Piper offered apologies and expressed deep regret for her actions, admitting that she had lied to her appraisers because of the fear of getting into trouble, XXX, and having to relive a traumatic time in her life.

17. In response to Tribunal questions, Dr Piper told the Tribunal that she had made consultation notes when she had prescribed for Patients A and B because she knew that she needed to have a record of why things had been prescribed. She also told the Tribunal that she had prescribed some of the medications to ensure that there was an audit trail in her dispensary and that there was sometimes a convenience or cost saving element to her motivation for doing this. Dr Piper told the Tribunal that she would be honest in future appraisals because she understood that the appraiser couldn't do their job properly if she was dishonest or not forthcoming with relevant information.

Documentary Evidence

18. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included, but was not limited to, electronic prescription records, correspondence between Dr Piper's legal representatives and the GMC regarding prescriptions and the CQC report dated March 2023.

19. The Tribunal also received, in support of Dr Piper, 42 testimonials from patients, members of family, colleagues and friends, all of which it has read. The Tribunal noted that the testimonials showed that the authors were aware of the allegations against Dr Piper and that they regarded her actions as significantly out of character.

Submissions

20. On behalf of the GMC, Mr Horgan, counsel, submitted that Dr Piper had admitted to prescribing for herself and her family over a long period of time, without informing the relevant NHS GPs, had lied to multiple appraisers about that prescribing and, as such, her fitness to practise was currently impaired by reason of her misconduct.

21. He reminded the Tribunal of the two-stage process that it must adopt at this stage of proceedings and of the fact that misconduct has no statutory definition. He referred the Tribunal to the case of *Roylance v. The General Medical Council (Medical Act 1983) [1999] UKPC 16 (24th March, 1999)*, which states:

> *'Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances. The misconduct is qualified in two respects. First, it is qualified by the word "professional" which links the misconduct to the profession of medicine. Secondly, the misconduct is qualified by the word "serious". It is not any professional misconduct which will qualify. The professional misconduct must be serious.'*

22. Mr Horgan also referred the Tribunal to paragraphs 16(g) and 65 of GMP, which he submitted that Dr Piper had breached:

> *'16 In providing clinical care you must:*
>
> *…*
>
> *g wherever possible, avoid providing medical care to yourself or anyone with whom you have a close personal relationship.*
>
> *…*
>
> *65 You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.'*

23. Mr Horgan also referred the Tribunal to *Good practice in prescribing and managing medicines and devices (2021)* ('the prescribing guidance') as well as its previous iterations. He directed the tribunal to paragraphs 67 and 68, which state:

> *'67 Wherever possible, you must avoid prescribing for yourself or anyone you have a close personal relationship with.*
> *68 If you prescribe any medicine for yourself or someone close to you, you must:*
> *a make a clear record at the same time or as soon as possible afterwards; the record should include your relationship to the patient, where relevant, and the reason it was necessary for you to prescribe'*

24. Mr Horgan submitted that Dr Piper had breached all the above paragraphs of the prescribing guidance and GMP and that her actions clearly constituted serious professional misconduct. He reminded the Tribunal of the large number of prescriptions that Dr Piper had written for herself and her family and submitted that this was part of a lengthy and persistent history of prescribing, which was in conflict with the principles set out above. Mr Horgan told the Tribunal that he did not contest Dr Piper's account or the seriousness of the circumstances that she found herself in but submitted that the Tribunal must set that context against the seriousness of persistent prescribing and the associated dishonesty.

25. Mr Horgan advised the Tribunal that he did not invite the Tribunal to make a qualitative assessment of the risks of the specific medications that were prescribed or the appropriateness of them being prescribed. It was not part of the GMC's case that any of the drugs had been inappropriately prescribed.

26. Mr Horgan submitted that it had been unclear if or when Dr Piper had read GMP other than around 2018 and reminded the Tribunal that guidance had changed since Dr Piper qualified. He submitted that, when she lied on her appraisals, Dr Piper was aware of her responsibilities under GMP and the prescribing guidance and lied to avoid getting in trouble. Mr Horgan submitted that, in doing this, Dr Piper had demonstrated a degree of arrogance and a lack of respect for GMP.

27. Mr Horgan submitted that the persistent nature of Dr Piper's dishonesty showed that it was a deliberate act to conceal her actions, which only came to light because of the CQC investigation and would be regarded as deplorable by fellow practitioners.

28. He submitted that the Tribunal should give consideration to the testimonials, which speak in Dr Piper's favour, but ask itself if Dr Piper's explanations had caused any concern about her ongoing insight. He asked how Dr Piper could be the honest person described in the evidence and testimonials and still persistently not tell the truth.

29. Mr Horgan submitted that the documentary evidence showed some understanding and insight but that Dr Piper's oral evidence was not wholly convincing that she understood why she had been dishonest.

30. Mr Horgan told the Tribunal that, in light of all the above, Dr Piper's actions amounted to serious misconduct and that her fitness to practise was impaired because of that misconduct. Mr Horgan summarised the relevant legal principles relating to impairment, which the Tribunal has set out in its reasons, recorded below.

31. On behalf of Dr Piper, Ms Scott-Bell, counsel, submitted that Dr Piper had accepted that her prescribing had been wrong, that she should have informed the relevant GPs and that her fitness to practise was impaired. She told the Tribunal that Dr Piper had fully reflected and done much to remediate her actions. She said that Dr Piper now fully understood the risks of prescribing for herself and her family and understands why she

was asked about this at her appraisals. She also acknowledged that the process of developing insight was still ongoing.

32. Ms Scott-Bell reminded the Tribunal that Dr Piper had admitted the Allegation in full at an early stage, well in advance of the hearing and, following the probity and ethics course, had volunteered the full extent of her history of prescribing for herself and her family in December 2021.

33. Ms Scott-Bell submitted that the Tribunal should consider the full context of what was going on in Dr Piper's life at the time of events. She submitted that Dr Piper's understanding of the guidance on prescribing had developed over time and, while she had known about the changes to the guidance, she had not fully appreciated the significance of those changes.

34. Ms Scott-Bell told the Tribunal that Dr Piper's failure to tell the truth about prescribing when she was directly asked was the most egregious aspect of her misconduct but that there were many reasons for this happening. These reasons included Dr Piper not believing the question to be of great importance, that prescribing for herself and her family was something that she had always done and that, having answered 'no' once, Dr Piper felt unable to go back on that and admit to her previous dishonesty.

35. Ms Scott-Bell submitted that, because of her personal circumstances, Dr Piper had previously been overloaded but, since these issues were brought to light, she has been unburdened and has a more settled personal life. Ms Scott-Bell submitted that this unburdening, combined with Dr Piper's extensive reflection and remediation efforts mean that she is unlikely to repeat her behaviour in the future.

36. She told the Tribunal that the latest appraisal and CQC reports show the improvements that Dr Piper has made. Ms Scott-Bell submitted that Dr Piper's reflections had shown her deep insight into why she had done what she had and that, but for the public interest limb of the overarching objective, it would be borderline if Dr Piper's fitness to practise was impaired.

The Relevant Legal Principles

37. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal's judgement alone.

38. In approaching the decision, the Tribunal was mindful of the two stage process to be adopted: first whether the facts as found proved amounted to misconduct, that was serious, and then whether the finding of that misconduct which was serious lead to a finding of impairment.

39. The Tribunal reminded itself that it must determine whether Dr Piper's fitness to practise is impaired today, taking into account Dr Piper's conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remediated and any likelihood of repetition.

40. The Tribunal were mindful of the test for impairment, which is Dame Janet Smith's test in The Fifth Shipman Report, cited and approved in *CHRE v NMC and P Grant [2011] EWHC 927 (Admin)*:

> *'a) Whether the registrant has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm;*
>
> *b) Whether the registrant has in the past brought and/or is liable in the future to bring the profession into disrepute;*
>
> *c) Whether the registrant has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession.*
>
> *d) Whether the registrant has in the past acted dishonestly and/or is liable to act dishonestly in the future.*

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> *74 In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'*

41. The Tribunal reminded itself that it should consider the personal circumstances of Dr Piper at the relevant times, which may speak to her culpability.

42. The Tribunal also reminded itself that a finding of impairment may be necessary to promote the second and third limbs of the overarching objective, as supported by *Grant* above and *General Medical Council v Chaudhary [2017] EWHC 2561 (Admin):*

> *'…it is important for this court to have restated the importance of the overarching objective, the tripartite public interest and the essential need for MPTs to conduct a balancing exercise rather than focus on just one aspect of the test.'*

The Tribunal's Determination on Impairment

43. The Tribunal began by considering each aspect of the Dr Piper's conduct to decide if they constituted serious professional misconduct.

44. The Tribunal first looked at paragraphs 1, 2 and 3 of the Allegation, which all related to Dr Piper's prescribing. It noted that, as set out by Mr Horgan, a doctor prescribing for themselves or their family is in breach of GMP. The Tribunal noted that Mr Horgan, despite enquiries by the Tribunal, had adduced no evidence that the drugs had ben inappropriately prescribed or were drugs that gave rise to particular concerns about patient safety. Nevertheless, the Tribunal found that Dr Piper's actions amounted to a persistent breach of GMP over a prolonged period of time and involved XXX patients. The Tribunal found that there is an inherent risk in self-prescribing and prescribing for family members. Dr Piper accepted this in her evidence.

45. In light of this, the Tribunal considered that Dr Piper's actions as set out in paragraphs 1, 2 and 3 of the Allegation amounted to serious misconduct.

46. Turning to paragraph 4 of the Allegation, the Tribunal was satisfied that Dr Piper's failure to inform the relevant GPs could impact patient safety and so found that this also amounted to serious misconduct. In her evidence, Dr Piper accepted this risk.

47. The Tribunal then went on to consider the allegations of dishonesty, reminding itself of paragraph 65 of GMP, as set out above, as well as paragraph 71 and the fundamental tenets of the medical profession:

'Patients must be able to trust doctors with their lives and health. To justify that trust you must show respect for human life and make sure your practice meets the standards expected of you in four domains … Keep your professional knowledge and skills up to date … Work with colleagues in the ways that best serve patients' interests … Be honest and open and act with integrity …

71 You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents. You must make sure that any documents you write or sign are not false or misleading.

a You must take reasonable steps to check the information is correct.

b You must not deliberately leave out relevant information.'

48. The Tribunal considered that Dr Piper's dishonesty had breached paragraphs of GMP and the fundamental tenet of the profession that a doctor must act with honesty. The Tribunal noted that Dr Piper's lies in her appraisal were not confined to ticking a box on a form, but amounted to explicit statements that she was not either self-prescribing or prescribing to her family and included explanations as to why she did not do so. It also reminded itself that her dishonesty was in a professional setting and considered that lying to an appraiser undermined the regulatory process and harmed public trust in the profession.

49. In light of the above, the Tribunal concluded that Dr Piper's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to serious misconduct

50. The Tribunal, having found that the facts found proved amounted to serious misconduct, went on to consider whether, as a result of that misconduct, Dr Piper's fitness to practise is currently impaired.

51. Having regard to the historical aspect of the *Grant* test, the Tribunal again considered each aspect of Dr Piper's misconduct. The Tribunal considered that, by not informing the relevant GPs of the prescriptions she had been writing for Patients A and B, Dr Piper had put them at risk of harm due to the potential risk of drugs interacting with other medications that were not on the patient records. In particular, the Tribunal was of the view that this risk would be heightened in an emergency situation.

52. The Tribunal found Dr Piper's acts of dishonesty towards her appraisers had brought the profession into disrepute because the appraisal process has an important role in promoting public confidence in the profession and that, by lying in this context, Dr Piper had undermined the appraisal process. The Tribunal also considered that Dr Piper's repeated acts of dishonesty breached a fundamental tenet of the profession, for the reasons set out above, and also clearly satisfied the fourth limb of the *Grant* test.

53. The Tribunal then turned to consider the future risk of repetition of Dr Piper's misconduct. When considering this question, the Tribunal had regard to the evidence of Dr Piper's insight and remediation.

54. The Tribunal reminded itself of Dr Piper's oral evidence as well as her witness statement and written reflections. It considered that Dr Piper had shown good insight into her prescribing and communication failures. The Tribunal was satisfied that Dr Piper understood that she had done wrong and why. The Tribunal noted Dr Piper's full admissions, the improvements evidenced in the latest CQC report, which described her Practice as 'Good' in all areas, and the fact that she had never sought to shift blame away from herself.

55. The Tribunal considered that Dr Piper had fully addressed the issues regarding prescribing and communication and had particular regard to Dr C's second witness statement, in which she said the following:

> *'She* (Dr Piper) *attended the Probity and Ethics course on 4 December 2021 very soon after the GMC referral was made and in her most recent appraisal on 12 September 2022 she included written reflections from this course which considered some of the roots of family prescribing. She also shared these reflections with me by e mail soon after the course on 12.12.2021. Within the reflections she confirmed that she has instructed copies of medical records XXX so they have copies of their records and that*

XXX have been given lots of options for whom they could see in the future about their healthcare.'

56. In light of this, the Tribunal considered that there was no longer a significant risk of Dr Piper putting patients at risk in the future through inappropriate prescribing and poor communication.

57. In deciding the risk of Dr Piper repeating her dishonesty, the Tribunal looked at the evidence of her insight and remediation. It noted the CPD courses that Dr Piper had taken as well as the evidence in Dr Piper's reflections:

'My lies in my appraisals and failure to admit to self and family prescribing are breaches of trust. My lessons are learnt that key ethical concerns surrounding boundary violations are a risk for my own health or that of the patient's health due to loss of objectivity with the potential consequence of poor decision making. Loss of trust from my patients. If the trust of patients is eroded, they will have less faith and confidence in not only myself but possibly other doctors "in general". They may be more reluctant to visit doctors or adhere to treatment, with adverse effects on their health. The public need to know that they have doctors acting in the best interests of patients. Loss of trust held by doctors that their colleagues will be honest and supportive.'

58. The Tribunal also noted the comments from Dr Piper's most recent appraisal:

'…she has shown a great deal of insight, as she has continued to learn and has become interested in governance and ethics. Because of this, her practice has moved…to being quite insular with very tight governance…She has stated that she is still enjoying the process, learning a great amount and remains grateful for all the support provided by the CQC.'

59. The Tribunal found that there was significant evidence of remediation, which demonstrated Dr Piper's developing insight and reminded itself again of her early admissions. It noted that Dr Piper had acknowledged that the process of remediation and developing insight was still on going.

60. The Tribunal acknowledged that Dr Piper had taken steps to improve her practice and conduct and this was evidenced by the most recent CQC report, the report from her Responsible Officer and the summary of her latest appraisal. The Tribunal also acknowledged that there was nothing to suggest that Dr Piper had been dishonest since September 2021. Nevertheless, the Tribunal found that this is a relatively short time in the context of repeated dishonesty over a number of years.

61. The Tribunal examined the evidence of Dr Piper's insight into her dishonesty and noted that she did understand that what she did was wrong and must not be repeated. The Tribunal found that Dr Piper had learned from the courses she had attended and understood the need to face up to difficult choices. Nevertheless, the Tribunal found

that Dr Piper's insight was not yet complete because she had not demonstrated, particularly in her oral evidence, that she fully understood the seriousness of the effect of her dishonesty on the medical profession and in terms of its effect on public confidence in the profession.

62. For those reasons, the Tribunal concluded that the risk of repetition was now small. Nonetheless, because of the particular importance of honesty in the medical profession, a finding of impairment must follow, even though the risk is small.

63. The Tribunal then considered whether a finding of impairment was in any event necessary to uphold the second and third limbs of the overarching objective, namely to promote and maintain public confidence in the profession and uphold proper professional standards and conduct.

64. Having regard to all the facts in this case, the Tribunal had no doubt that a finding of impairment was necessary and that it would be failing in its duty if it did not make one in this case. Therefore, the Tribunal found that Dr Piper's fitness to practise is also impaired by reason of her misconduct because of the need to maintain and promote proper professional standards and the need to maintain public trust in the profession.

65. For all the reasons set out above, the Tribunal found that Dr Piper's fitness to practise is currently impaired.

Determination on Sanction - 22/05/2023

66. Having determined that Dr Piper's fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.

67. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

Submissions

68. On behalf of the GMC, Mr Horgan submitted that a period of suspension would be the most appropriate sanction in this case due to Dr Piper's serious, persistent breach of GMP, as identified in the Tribunal's impairment determination.

69. He noted that the Tribunal had previously found Dr Piper's insight to be full in relation to the prescribing and patient safety aspects of the case but to still be developing in relation to her dishonesty. Mr Horgan identified several mitigating factors, including the personal circumstances of Dr Piper at the relevant times, her good character and her level of insight and remediation.

70. Mr Horgan submitted that the Tribunal had already identified Dr Piper's conduct to be dishonesty over a period of time and in a professional setting, which undermined the regulatory process. He also referred the Tribunal to paragraph 124 of the Sanctions Guidance (2020) ('the SG'), which sets out that *'Evidence of clinical competence cannot mitigate serious and/or persistent dishonesty.'*

71. Turning to the possible sanctions, Mr Horgan submitted that it would not be appropriate to take no action in this case as there were no exceptional circumstances to justify doing so. He also referred the Tribunal to paragraph 69 of the SG, which says that insight and remediation are unlikely to justify a Tribunal taking no action.

72. Mr Horgan reminded the Tribunal that the conditions were most likely to be appropriate to deal with deficiencies in clinical skills or to address a doctor's health concerns and that they must be workable, measurable, appropriate and proportionate. He submitted that, in light of the serious misconduct which Dr Piper had admitted, conditions would not be appropriate or proportionate to uphold standards in the profession or maintain public confidence. He also submitted that conditions would not be workable or measurable in cases of dishonesty.

73. Mr Horgan then moved on to consider suspension, stating that it can have a deterrent effect and can be used to send out a signal to the profession. He referred the Tribunal to the relevant paragraphs of the SG, including:

> *'92 Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).*
>
> *93 Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions (see paragraphs 24–49).'*

74. Mr Horgan also referred the Tribunal to paragraph 97 of the SG and the relevant sub-paragraphs that he submitted identified factors of this case that pointed to a period of suspension being the appropriate sanction:

> *'97 Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*

a A serious breach of Good medical practice, but where the doctor's misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors.

e No evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage.

…

f No evidence of repetition of similar behaviour since incident.

g The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.'

75. Mr Horgan submitted that these factors were all present in this case and that they and the above paragraphs of the SG supported his submission that a period of suspension was the most appropriate sanction in this case, bearing in mind the principal of proportionality. He submitted that the Tribunal had already found that Dr Piper's actions were a persistent and serious breach of a fundamental tenet of the medical profession, which brought the profession into disrepute and undermined the appraisal process.

76. Mr Horgan submitted that the Tribunal had a duty to uphold professional standards and maintain public confidence in the profession, which would be seriously undermined if a sanction less than suspension were imposed.

77. Mr Horgan also noted paragraph 128 of the SG, which states that persistent dishonesty is likely to lead to a sanction of erasure. He submitted that the Tribunal should move upwards through the possible sanctions and stop when they reached one that was appropriate. He said that, in this case, that was suspension because, although her actions were serious, Dr Piper had shown significant insight, had not sought to cover up her dishonesty and was unlikely to repeat it. Mr Horgan did not suggest that Dr Piper's actions were fundamentally incompatible with continued registration.

78. On behalf of Dr Piper, Ms Scott-Bell submitted that a short period of suspension would be an appropriate sanction in this case. She told the Tribunal that there was a public interest in having a good doctor return to practice as soon as possible. She told the Tribunal of the significant impact a lengthy period of suspension would have on Dr Piper and others at her practice.

79. Ms Scott-Bell referred the Tribunal to the case of *Sawati v GMC [2022] EWHC 283 (Admin)* and submitted that the dishonesty aspects were not the primary Allegation in this case.

80. Ms Scott-Bell reminded the Tribunal of the personal circumstances of Dr Piper at the relevant times as well as her apology and early admissions. She said that, like many doctors of her generation, Dr Piper had not moved with the times as quickly as she should have but was now fully aware of the guidance regarding self-prescribing and prescribing for family members. Ms Scott-Bell also told the Tribunal that Dr Piper fully accepts she should have kept Patient A and B's GPs informed at all times but also reminded the Tribunal that she had kept Patient B's consultant informed.

81. Ms Scott-Bell referred the Tribunal to the body of testimonials and told the Tribunal that this included testimonials from senior clinicians. She submitted that these should be given significant weight by the Tribunal.

82. Ms Scott-Bell submitted that Dr Piper had made genuine efforts to remediate her actions and had sought to fully understand what had happened and why. She reminded the Tribunal of the CPD courses that Dr Piper had completed and submitted that the latest CQC report and appraisal demonstrated the improvements that Dr Piper had made. She submitted that Dr Piper's acts were dishonest but that she was not a dishonest person.

The Tribunal's Determination on Sanction

83. The Tribunal recognised that the main reason for imposing a sanction was to protect the public, promote and maintain public confidence in the profession and promote and maintain proper professional standards.

84. Sancions are not imposed to punish a doctor, although they may have a punitive effect. Patients must be able to trust doctors, so doctors must ensure that their conduct justifies their patients' trust in them and the public's trust in the medical profession.

85. The Tribunal bore in mind the principle of proportionality but reminded itself that, although the tribunal should make sure the sanction it imposes is appropriate and proportionate, the reputation of the profession as a whole is more important than the interests of any individual doctor.

86. Where the Tribunal find that there are features that indicate two different sanctions could be appropriate, the Tribunal must give reasons not just for why it chose the sanction that it did but also why it rejected the other.

87. The Tribunal began by identifying the aggravating and mitigating factors of the case.

88. The Tribunal considered that it was an aggravating factor that Dr Piper had engaged in repeated episodes of dishonesty over a long period of time and in a professional setting.

89. In mitigation, the Tribunal considered the following factors to be relevant:

- The personal circumstances of Dr Piper at the relevant times including the health of herself XXX;
- Dr Piper made early disclosure of her misconduct and made full admissions in advance of the hearing;
- Dr Piper had fully co-operated with the CQC investigations and had volunteered further information in December 2021, relating to her prescribing for Patients A and B;
- Dr Piper had apologised for her actions;
- There was evidence of Dr Piper's remediation as set out in her RO's witness statement;
- The Tribunal accepted that Dr Piper was otherwise of good character;
- The Tribunal attached significant weight to the testimonials from clinicians, who were fully aware of the Allegation against Dr Piper, but was able to attach less weight to the testimonials from Dr Piper's family members;
- There was evidence of the improvements that Dr Piper had made to her practice, set out in the most recent CQC report, her RO's statement and the summary of her 2022 appraisal;
- Dr Piper had shown very good insight into her prescribing and communication failures, although this was still developing in relation to her dishonesty.

90. The Tribunal then moved on to consider what sanction, if any, would be appropriate in this case.

91. The Tribunal agreed with the submissions of Mr Horgan that it would not be appropriate to take no action or impose conditions. It found that there were no exceptional circumstances in this case and that an order of conditions would not be workable or sufficient to maintain professional standards or promote and maintain public confidence in the profession.

92. The Tribunal then moved on to consider suspension. It reminded itself that Dr Piper had breached a fundamental tenet of the profession and undermined the regulatory process. The Tribunal considered the paragraphs of the SG as set out above and agreed with Mr Horgan's submission that these indicated that suspension may be the appropriate sanction. However, given the serious nature of Dr Piper's misconduct, the Tribunal found it necessary to also consider erasure.

93. The Tribunal had regard to paragraph 109 of the SG, which sets out some features that may indicate that erasure is appropriate. It found that sub-paragraph (a) applied in this case and needed to be considered:

'a A particularly serious departure from the principles set out in Good medical practice

where the behaviour is fundamentally incompatible with being a doctor.'

94. The Tribunal also considered paragarph 128 of the SG, which states that:

'*Dishonesty, if persistent and or covered up, is likely to result in erasure.'*

95. The Tribunal also had regard to paragraph 127 of *Sawati,* in which Collins Rice J said*:*

'Dishonesty – of any sort whatever – is unquestionably at least a yellow card issue for a doctor. But whether it is a red card issue in any case is a matter for the Tribunal to evaluate. Erasure for dishonesty is not automatic, so it is not exempt from the general requirement to assess the seriousness of misconduct in every case before a sanction is imposed. The nature and extent of dishonesty may be variable, and must be evaluated on a case by case basis.'

96. The Tribunal also considered the list of examples set out in the table after paragraph 102 of the SG for a tribunal to consider when deciding on the length of a period of suspension, which includes *'The extent of the doctor's significant or sustained acts of dishonesty or misconduct'.* The Tribunal considered that, because this factor is listed in the table as a consideration for the length of a period of suspension, it is implicit that there may be circumstances where a period of suspension will be appropriate even in cases of repeated dishonesty.

97. Against this background, the Tribunal considered the gravity of Dr Piper's misconduct and in particular whether it was fundamentally incompatible with continued registration.

98. The Tribunal was satisfied that that Dr Piper's misoncduct did amount to a serious departure from GMP, but was not fundamentally incompatible with continued registration. Turning first to Dr Piper's prescribing to herself and her family, the Tribunal concluded that this was misconduct that was capable of remediation and, for the reasons set out above, the Tribunal was satisfied that Dr Piper had remediated and there was no significant risk of repetition. Accordingly, the Tribunal was satisfied that Dr Piper's misconduct was not incompatible with continued registration.

99. Dr Piper's dishonesty in completing her appraisals, gave the Tribunal greater concern. It found that Dr Piper's dishonesty was serious but did not fall into the most serious categories identified in the SG:

A) Her dishonest entries in her appraisal were not motivated by financial gain;
B) She was not motivated to achieve unfair professional advancement and
C) Her dishonesty was limited in scope to concealing misconduct in a specific area of her practice, which, although serious, was not the most serious form of misconduct.

100. With regard to this last point, the Tribunal could not accepet Ms Scott-Bell's submission that the dishonesty in this case was "secondary" to other misconduct. Nevertheless it bore in mind that it was motivated in the way set out above which does indicate that it is less serious then some forms of dishonesty.

101. Having regard to all these matters, the Tribunal was satisfied that, despite the gravity of the misconduct in this case, it was entitled to take into account the mitigating factors it had already identified and which, in the Tribunal's view, significantly outweighed the aggravating features in this case.

102. In light of all the above, the Tribunal determined that a period of suspension would be the most appropriate and proportionate sanction in this case.

103. The Tribunal then went on to consider the length of such a suspension. It noted Ms Scott-Bell's submissions about the impact a lengthy suspension would have on Dr Piper but reminded itself of paragraph 17 of the SG, which states that *'the reputation of the profession as a whole is more important than the interests of any individual doctor.'*

104. The Tribunal considered that a relatively lengthy period of suspension would be necessary to satisfy the public interest in the case and uphold proper professional standards. It also noted its previous findings that Dr Piper had not yet completed her journey to full insight.

105. For these reasons, the Tribunal determined to impose a period of suspension for 9 months upon Dr Piper's registration. The Tribunal was satisfied that this would be sufficient to maintain public confidence in the profession, promote and maintain proper professional standards of conduct for members of the profession and send out a signal to other doctors. This will also allow Dr Piper time to develop full insight.

106. The Tribunal also determined to direct a review of Dr Piper's case because it had identified some risk of repetition and considered that Dr Piper needed to be able to demonstrate her continued honesty. A review hearing will convene shortly before the end of the period of suspension. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Piper to demonstrate how she has further developed her insight and maintained an honest life. It therefore may assist the reviewing Tribunal if Dr Piper provided a further reflective piece and evidence of any further study. Dr Piper will also be able to provide any other information that she considers will assist.

Determination on Immediate Order - 22/05/2023

107. Having determined that Dr Piper's registration should be subject to a period of suspension for 9 months, the Tribunal considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Piper's registration should be subject to an immediate order.

Submissions

108. On behalf of the GMC, Mr Horgan referred the tribunal to the relevant paragraphs of the SG, including paragraph 177:

> *'177 Where the tribunal has directed conditional registration as the substantive outcome of the case, it may impose an immediate order of conditional registration. Where the tribunal has directed suspension or erasure as the substantive outcome of the case, it may impose an immediate order to suspend registration.'*

109. He submitted that it was a matter for the Tribunal whether or not to impose an immediate order and that the GMC were neutral on the issue.

110. On behalf of Dr Piper, Ms Scott-Bell submitted that to impose an immediate order, the Tribunal must be satisfied that it is necessary to protect members of the public, is otherwise in the public interest or is in Dr Piper's best interests. She submitted that none of these factors were true in this case and that public confidence would not be eroded by allowing Dr Piper to practise during the appeal period.

The Tribunal's Determination

111. The Tribunal took into account the SG, as referred to by Mr Horgan. It also considered the following paragraphs, which state:

> *'172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor…*
>
> *173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.'*

112. The Tribunal determined that there are no clinical concerns in this case and therefore Dr Piper does not pose a risk to patient safety. It also considered the risk of Dr Piper repeating her dishonesty to be low.

113. The Tribunal then considered whether immediate action must be taken to promote and maintain public confidence in the medical profession. The Tribunal determined that the public interest did not require it to impose an immediate order on Dr Piper's registration because public confidence will be maintained by the substantive order that the Tribunal has made.

114. This means that Dr Piper's registration will be suspended 28 days from the date on which written notification of this decision is deemed to have been served, unless she lodges an appeal. If Dr Piper does lodge an appeal, she will remain free to practise unrestricted until the outcome of any appeal is known.

115. This concludes the case.