

PUBLIC RECORD

Dates: 12/04/2024

Medical Practitioner's name: Dr Marek ZELINSKI

GMC reference number: 6161127

Primary medical qualification: Lekarz 1983 Slaska Akademia Medyczna w Katowicach

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

Summary of outcome
Conditions revoked

Tribunal:

Legally Qualified Chair	Mr Richard Wood
Medical Tribunal Member:	Dr Carl Egdell
Medical Tribunal Member:	Dr Anjali Ahluwalia
Tribunal Clerk:	Mr Joel Taylor-Garratt

Attendance and Representation:

Medical Practitioner:	Present, not represented
GMC Representative:	Mr Edmund Potts, 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 - 12/04/2024

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 Zelinski's fitness to practise is impaired by reason of misconduct and whether the practitioner has failed to comply with any requirement imposed upon him as a condition of registration.

The Outcome of Applications Made during the Impairment Stage

2. The Tribunal granted Zelinski's application, made pursuant to Rule 22(1)(d), to adduce further documentary evidence.

Background

3. Dr Zelinski qualified in 1983 from the Silesia Medical University in Katowice, Poland. He moved to the UK in 2012 and worked as a privately practising freelance doctor in orthopaedics, initially on a part-time basis, at the Tooting Medical Centre ('the Centre') in London from September 2012. At the time of the events in this case, June 2016, Dr Zelinski was working at the Centre.
4. The facts found proved at Dr Zelinski's hearing which concluded in June 2023 can be summarised as a failure to adequately review X-rays provided by Patient A during a consultation, administration of Platelet-Rich Plasma ('PRP') injections, which were not clinically indicated, inappropriately advising Patient A to wear an orthopaedic body corset for more than 14 days and various instances of poor record keeping in relation to Patient A's care.
5. The 2023 Tribunal found that all the above matters amounted to misconduct except for in relation to the PRP injections. The 2023 Tribunal was satisfied that Dr Zelinski had fully remediated his misconduct regarding poor record keeping but found that his fitness to practise was impaired by reason of misconduct in relation to his inadequate review of the X-rays and his failure to properly advise the patient on the wearing of the brace/body corset.
6. The 2023 Tribunal considered that Dr Zelinski had shown no insight into his failings regarding the advice he gave to Patient A in wearing a brace/body corset and that he had not yet remediated his failings in relation to his duty to provide continuous advice to a patient. The 2023 Tribunal considered that Dr Zelinski needed to complete his

remediation. It considered that Dr Zelinski's misconduct was remediable and that he was capable of engaging in a learning process to correct his failings.

7. The 2023 Tribunal determined to impose an order of conditions on Dr Zelinski's registration as well as ordering a review. It indicated that the reviewing Tribunal may be assisted if Dr Zelinski provided the following:
 - Evidence of further insight;
 - Reflective statement outlining his insight on his past actions, his misconduct, and the impact his actions have had upon public confidence in the medical profession;
 - Copy of his log;
 - Copy of his Personal Development Plan ('PDP');
 - Evidence of courses pursued as part of his PDP;
 - Any other information which Dr Zelinski considers would assist the Tribunal.

The 2024 Tribunal

The Evidence

8. The Tribunal has taken into account all the evidence received, both oral and documentary.
9. Dr Zelinski did not provide a witness statement but gave oral evidence at the hearing.
10. In his evidence, Dr Zelinski told the Tribunal that he now often advises medical taping in place of an Orthopaedic brace and that, in cases where a patient is wearing an Orthopaedic brace, he delegates advice on their use to a physiotherapist. He told the Tribunal that he understands the need for him to not start treatment of an injury without seeing good quality imaging, which Dr Zelinski said should be an MRI complete with radiology report.
11. Dr Zelinski said that he was at fault by starting treatment of Patient A when he had only seen X-rays on their mobile phone but also described feeling hopeless because Patient A had refused multiple other avenues of care. In answer to questions from the GMC, Dr Zelinski said that, in the future, if a patient breached medical advice, he would take time to explain to them the possible risks of such action. Dr Zelinski also said that his consultation with Patient A was not as long as his usual consultations are now and that he now has time with patients to discuss things in more detail.
12. Dr Zelinski told the Tribunal that he is a different doctor now, would not repeat his mistakes and was not a risk to patients.
13. The Tribunal received documentary evidence including, but not limited to, Dr Zelinski's CPD certificates, Multi Source Feedback ('MSF'), Workplace/Clinical Supervisor reports

and PDP, which included his reflections. The Tribunal also received an email sent to the GMC by Dr Zelinski on 9 January 2024, detailing his reflections as well as further reflections received on 11 April 2024.

Submissions

14. On behalf of the GMC, Ms Kaye, Counsel, submitted that Dr Zelinski's reflections were brief and failed to meaningfully engage with the reasons for his finding of impairment. She said that Dr Zelinski had shown some insight into his practice of reviewing X-rays but had been silent on the issues relating to advising on the use of a body corset.
15. Ms Kaye submitted that Dr Zelinski did not seem to have understood that he had done wrong in not advising Patient A on the proper use of the body corset and that he had denied any negative impact on Patient A because of his actions.
16. Ms Kaye also said that Dr Zelinski had not demonstrated a wider understanding of the wider ramifications of his actions on public confidence in the profession or on the profession as a whole. She submitted that Dr Zelinski's issues were deep rooted and warranted more than the three pages of sparse reflections.
17. She submitted that, because of his lack of insight, the Tribunal could not be satisfied that there was no risk of repetition and that Dr Zelinski remained impaired.
18. In response, Dr Zelinski submitted that he understood what he had done wrong and has done significant work to put this right. He recognised that his faults were in treating Patient A without a Radiologist's report and in not advising him on proper use of the brace.
19. Dr Zelinski submitted that he was a completely different doctor now, was not a risk to the public and was not likely to repeat his faults.

The Relevant Legal Principles

20. 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 practice.
21. This Tribunal must determine whether Dr Zelinski's fitness to practise is impaired today, taking into account Dr Zelinski'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

22. The Tribunal reminded itself that the grounds for Dr Zelinski's impairment were on two narrow points, confined to the care of one patient, and much reduced from the original Allegation. It also considered that, despite some initial concerns about his language skills, Dr Zelinski had clearly demonstrated his ability to communicate when discussing medical topics.
23. The Tribunal noted Dr Zelinski's statements, both oral and in his written reflections, that he has changed his practice regarding imaging. He had said that he now does not commence treatment without clear imaging and relies upon the expertise of Physiotherapists to advise on the correct use of Orthopaedic braces. The Tribunal also noted the GMC's submission that Dr Zelinski had insight into his failure regarding the X-ray, had remediated and was no longer impaired by this reason.
24. The Tribunal considered that Dr Zelinski's answers to questions could seem evasive at times but accepted that he did explain that he would explain to patients the possible risks of not complying with care as advised. He had told the Tribunal that he would always make sure a patient is safe, spending longer in consultations to ensure this.
25. The Tribunal considered that Dr Zelinski's insight was not yet complete but that he did have a good understanding of what he had done wrong and had made good remedial efforts to ensure this would not happen again in the future. The Tribunal was of the view that demonstrating insight in these proceedings requires a nuanced command of language and communication, which can be particularly difficult for a self-represented doctor who was using their second language. This was a one-off incident, which occurred some 8 years ago. There had been no subsequent issues with patients in that time, notwithstanding that Dr Zelinski had continued to practice medicine.
26. The Tribunal was mindful that it had been a requirement of Dr Zelinski to provide a log of treatment of patients with similar conditions to Patient A and needing the use of a brace or corset. The GMC conceded that this was likely to be difficult to produce due to lack of opportunity.
27. In light of this, the Tribunal was satisfied that Dr Zelinski's remediation and insight, despite not being complete, was sufficient to relieve concerns about possible future risk to patients.
28. This Tribunal has therefore determined that Dr Zelinski's fitness to practise is not impaired by reason of misconduct.
29. The existing order is hereby revoked.
30. This concludes the case.