

**PUBLIC RECORD**

Date: 06/09/2024

Medical Practitioner’s name: Dr Marta KASZTELEWICZ  
 GMC reference number: 7060539  
 Primary medical qualification: State Exam Med 2006 Medizinische Hochschule Hannover

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

**Summary of outcome**  
 Suspension revoked

**Tribunal:**

Legally Qualified Chair	Miss Gillian Temple-Bone
Medical Tribunal Member	Dr Candida Borsada
Medical Tribunal Member	Dr Emily Hubbard
Tribunal Clerk:	Mrs Jennifer Coakley

**Attendance and Representation:**

Medical Practitioner:	Present, represented
Medical Practitioner’s Representative:	Mr Stephen McCaffrey, Counsel
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 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 Impairment - 06/09/2024

1. At this review hearing the Tribunal 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 Kasztelewicz's fitness to practise is impaired by reason of misconduct and/or a caution for a criminal offence.

## The Outcome of Applications Made during the Impairment Stage

2. The Tribunal granted the application of Mr Stephen McCaffrey, on behalf of Dr Kasztelewicz, made pursuant to Rule 41 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), that parts of the hearing relating to XXX be held in private session. The Tribunal determined that it would be appropriate to exclude the press and public from this hearing whilst discussing matters relating to XXX. However, as this case concerns Dr Kasztelewicz's misconduct and caution, a redacted version of the determination will be published after the hearing with those matters relating to XXX removed.

## Background

3. Dr Kasztelewicz qualified in 2006 and prior to the events which are the subject of the hearing she was working as a locum at registrar level at Singleton Hospital in Swansea. The initial concerns were raised with the GMC on 28 May 2020 by Dr Kasztelewicz's Responsible Officer.

4. Dr Kasztelewicz made admissions to the entirety of the Allegation at her MPT hearing which took place in October 2023. The facts found proved can be summarised as follows: between August 2015 and December 2019, Dr Kasztelewicz inappropriately issued private prescriptions to Patient A, someone with whom she had a close personal relationship. Some of the prescriptions were clinically inappropriate as they were excessive in quantity, duration and frequency. In addition, on 19 September 2019, Dr Kasztelewicz inappropriately provided treatment to Patient A at the Admissions Unit at Singleton Hospital, when she had no

authority to treat patients there. Further, on 10 February 2021, at Swansea Central Police Station, Dr Kasztelewicz accepted a caution in relation to supplying fraudulent private prescriptions and another related offence.

5. During the October 2023 hearing, Dr Kasztelewicz conceded that her actions had amounted to misconduct. The October 2023 Tribunal determined that Dr Kasztelewicz's actions amounted to misconduct that was serious. It determined that her fitness to practise was impaired by reason of both misconduct and a caution. The October 2023 Tribunal determined to suspend Dr Kasztelewicz's registration for a period of five months. In reaching its decision, the October 2023 Tribunal took into account that, although there were a number of aggravating factors, there was evidence of XXX. The October 2023 Tribunal took into account that Dr Kasztelewicz had made early admissions, taken steps to remediate and sought appropriate professional assistance to develop her insight and resilience. Dr Kasztelewicz had additionally taken steps to XXX. The October 2023 Tribunal considered that suspending Dr Kasztelewicz's registration for five months would be proportionate to the gravity of the findings, enable her the opportunity to develop insight further and to demonstrate and take steps to remediate her actions. The October 2023 Tribunal indicated that a reviewing Tribunal may be assisted by the following:

- Evidence of insight and remediation into her misconduct;
- Reflective statement which shows her remorse and understanding of the impact of her actions, particularly on the dangers of prescribing potentially addictive drugs;
- Evidence that she has kept her clinical knowledge up to date;
- Any CPD or attachments she has undertaken, and any reflections made on these;
- An understanding of relevant guidance including GMP and guidance around prescriptions;
- Any other information which Dr Kasztelewicz considers would assist the reviewing Tribunal.

6. Dr Kasztelewicz's case was listed to be reviewed on 11 April 2024. At the outset of that hearing, an application was made on behalf of Dr Kasztelewicz to adjourn proceedings. XXX. The April 2024 Tribunal determined that it would be reasonable to adjourn the hearing to allow Dr Kasztelewicz XXX and prepare for her review hearing. It considered that extending the suspension for a period of five months would allow sufficient time and would reflect the duration of time imposed by the original substantive Tribunal.

## The Evidence Today

7. The Tribunal has taken into account all the evidence received, both oral and documentary.
8. Dr Kasztelewicz gave oral evidence at the hearing. She spoke about how she now understands the inappropriate and unhealthy nature of her relationship with Patient A and how this contributed to her actions. XXX. She explained that, should this Tribunal decide to lift her suspension, she would XXX and then would take up an opportunity to live in London and shadow some consultants in Queen Elizabeth Hospital. After this, she would work at St Mary's Hospital, where she has consultants who would be willing to employ her. In the longer term, she plans to embark on GP training.
9. The Tribunal also took into account the documentary evidence provided, including, but not limited to a reflective statement, dated August 2024, certificate of completion of a probity, ethics and professionalism course, dated 24 April 2024 and reflections, CPD portfolio and reflections XXX.

### Submissions

10. On behalf of the GMC, Mr Lewis Kennedy, Counsel, submitted that the GMC is neutral on the issue of impairment. He submitted that the GMC recognises that Dr Kasztelewicz has addressed all of the October 2023 Tribunal's concerns by providing what was requested of her. She has provided good evidence of reflection and remediation, and her reflective statement can be regarded as very strong and insightful. He submitted that the GMC is content to allow this reviewing Tribunal to determine the outcome.
11. On behalf of Dr Kasztelewicz, Mr Stephen McCaffrey, Counsel, submitted that Dr Kasztelewicz has delivered on everything that was asked of her. She has been able to speak candidly and at length of her learnings, insight and plans to return to work. He submitted that she should now be allowed to do so.

### The Relevant Legal Principles

12. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. As noted above, the October 2023 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 she would be safe to return to unrestricted practise.
13. This Tribunal must determine whether Dr Kasztelewicz's fitness to practise is impaired today, taking into account her 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.

14. The courts have said that four reasons for unfitness tend to recur and on the facts of some cases more than one of them will apply. They are that:

- (i) the doctor presents a risk to patients;
- (ii) he has brought the profession into disrepute;
- (iii) he has breached one of the fundamental tenets of the profession;
- (iv) his integrity cannot be relied upon;

15. The Tribunal will be mindful of the guidance from Mrs Justice Cox in Council for Healthcare Regulatory Excellence v. NMC and Paula Grant [2011] EWHC 927 (Admin), adopting the test proposed by Dame Janet Smith in the Shipman enquiry.

*"Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:*

- a. 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; and/or*
- b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d. has in the past acted dishonestly and/or is liable to act dishonestly in the future."*

16. There is clear authority that when determining the issue of impairment of fitness to practise the question is whether it is impaired as at the date of the hearing (i.e. today). Accordingly, regard must be had for the way in which the practitioner has acted, or failed to act, in the past, including the facts found proved by the Tribunal.

17. Finally, the Tribunal is invited to have regard for the guidance of Silber J. in Cohen -v- GMC [2008] EWHC 581 Admin, that any approach to the issue of whether a doctor's fitness to practise is to be regarded as "impaired" must take account of the need to give substantial weight to the public interest, including the protection of patients, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct and behaviour.

### **The Tribunal's Determination on Impairment**

18. The Tribunal considered all of the evidence which has been presented during the course of these proceedings and the submissions from Mr Kennedy and Mr McCaffrey.

19. In reaching its decision, the Tribunal considered the supporting evidence that the October 2023 Tribunal indicated may assist at this review.

20. The Tribunal bore in mind the findings of the October 2023 Tribunal and the seriousness of Dr Kasztelewicz's misconduct and caution, which involved inappropriately issuing private prescriptions to Patient A, someone with whom she had a close personal relationship. Some of the prescriptions were clinically inappropriate as they were excessive in quantity, duration and frequency. Dr Kasztelewicz also inappropriately provided treatment to Patient A at a hospital where she had no authority to treat patients. It reminded itself that the October 2023 Tribunal considered that a finding of impairment by reason of misconduct and caution was required to protect, promote and maintain the health, safety and wellbeing 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.

21. This Tribunal noted that Dr Kasztelewicz has provided all of the documents suggested by the October 2023 Tribunal including a reflective statement addressing her remorse and understanding of her actions, particularly on the dangers of prescribing potentially addictive drugs, a CPD portfolio with reflections on each course undertaken, and evidence of the completion of courses and reflections.

22. The Tribunal considered Dr Kasztelewicz's reflective statement to be sincere and thorough. She states that:

*'I deeply regret the mistakes I have done and I am very sorry. I fully understand now what impact my actions had on the general public, the GMC, my colleagues, my patient ([Patient A]) and myself. And I also understand now what circumstances and behavioural patterns in the relationship with [Patient A] and my biography led to the situation. I feel I have gained significant insight and changed my life profoundly. Given all the negative consequences my actions had I can ensure that this will never happen again.'*

23. The Tribunal was of the view that the evidence provided demonstrates that Dr Kasztelewicz has taken steps to further minimise the risk of repetition of her misconduct. This includes practical steps such as XXX and by completing CPD relevant to prescribing potentially

addictive drugs. She has also provided written reflections on the courses and CPD she has completed.

24. XXX

25. The Tribunal was satisfied that Dr Kasztelewicz has undertaken a significant amount of reflection and demonstrated that she understands what she did was wrong, why it was wrong and has taken practical steps to prevent it from happening again. Her actions since October 2023 are commendable XXX. The Tribunal considered that Dr Kasztelewicz has fully acknowledged her faults, is open and accepting of advice, and understands how her behaviour impacted on others, on the reputation of the profession and on public confidence. XXX.

26. Regarding keeping her knowledge and skills up-to-date, the Tribunal noted the CPD portfolio Dr Kasztelewicz has provided, including topics which are relevant to her misconduct such as 'Acute pain in XXX patients and patients on long term opioids', 'Guidelines on Opioid Prescribing' and 'Safeguarding adults in primary care'. Whilst the evidence of keeping her clinical knowledge up to date is acceptable, the Tribunal noted she has not worked for some years and will need to carefully plan her resumption of work.

27. The Tribunal was reassured by Dr Kasztelewicz's stated plan to XXX, work shadowing, and by taking the opportunity to observe and reflect for a time before resuming employment.

28. In all the circumstances, the Tribunal was satisfied that Dr Kasztelewicz has demonstrated that she has developed further insight and taken the necessary steps to remedy her misconduct. The Tribunal was of the view that she has addressed the October 2023 Tribunal's concerns and has taken steps to ensure that such misconduct will not reoccur. It was satisfied that, through the evidence provided, Dr Kasztelewicz has demonstrated sufficient progress to fulfil the public interest in terms of her misconduct and caution. It was of the view that a reasonable and fully informed member of the public would consider that it would be inappropriate to make a further finding of impairment at this stage. The Tribunal therefore concluded that Dr Kasztelewicz is safe to return to practice, and that it is in the public interest for her to do so.

29. The Tribunal has therefore determined that Dr Kasztelewicz's fitness to practise is no longer impaired by reason of misconduct or a caution for a criminal offence.

### Revocation of suspension

30. Having determined that Dr Kasztelewicz’s fitness to practise is no longer impaired by reason of misconduct or caution, the Tribunal considered whether it should revoke the order of suspension currently imposed on her registration, or whether to allow the suspension to expire on 29 September 2024.

31. The Tribunal considered that, given its finding that Dr Kasztelewicz’s fitness to practise is no longer impaired, it would be disproportionate for her suspension to run any longer than necessary. It was satisfied that the public interest includes allowing doctors to return to unrestricted practice when no longer found impaired.

32. Accordingly, the current substantive order of suspension on Dr Kasztelewicz’s registration is revoked with immediate effect.