

PUBLIC RECORD

Dates: 08/01/2024 - 17/01/2024

Medical Practitioner's name: Dr Nimra ARSHAD

GMC reference number: 7857408

Primary medical qualification: Doctor - Medic 2020 Universitatea Ovidius

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

Summary of outcome
Suspension, 3 months

Tribunal:

Legally Qualified Chair	Ms Amarjit Sagar
Lay Tribunal Member:	Mrs Ronno Griffiths
Medical Tribunal Member:	Dr Alan Shepherd

Tribunal Clerk:	Ms Jemine Pemu
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Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Alan Taylor, Counsel, instructed by Stephensons Solicitors
GMC Representative:	Ms Chloe Fairley, 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 Facts - 12/01/2024

Background

1. Dr Arshad qualified at Universitatea Ovidius and registered with the GMC on 27 November 2020. Subsequently, she was employed as a Locum Doctor specialising in care of the elderly. Currently, Dr Arshad is practising as a Locum Junior Doctor at The Poplars CUE for South-West Yorkshire Hospitals, on a community unit specialising in providing care for the elderly and psychiatry, specifically, patients suffering with dementia.
2. The allegation that has led to Dr Arshad's hearing can be summarised as follows: Dr Arshad created a social media business account to advertise or allow her services to be advertised in the administration of intravenous infusions ('IV infusions'). It is also alleged that Dr Arshad published or allowed the publication of content that made claims as to the efficacy and/or clinical benefits of the IV infusions and allowed her status to be cited as a 'GMC certified Doctor' to lend credence to the Claims.
3. It is further alleged that Dr Arshad's actions were potentially exploitative in the context of the Covid-19 pandemic and were inappropriate in that they exposed patients to the unnecessary risk of intravenous infusion. Lastly, it is alleged that the claims were untrue, were known by Dr Arshad to be untrue and, as a result, her actions were dishonest.
4. The GMC received a referral from Dr Q ('the Referrer') following a complaint which was received on 23 March 2021 ('the index complaint'). The GMC raised concerns regarding what was considered to be the promotion of non-evidence-based treatment. The index complaint alleged that Dr Arshad had made several false and/or misleading claims about the benefits of the drips and was promoting the drips via her social media account on Instagram. It is alleged that Dr Arshad made claims that the IV infusions could treat various problems / diseases including anaemia, Parkinson's disease and Alzheimer's.

5. Following the complaint, Mr K, an Investigation Advisor at the General Medical Council ('GMC') viewed the Instagram account titled 'XXX' ('DD') on 5 May 2021 and 9 December 2021. He obtained copies of the photographs, documents and videos posted on both Dr Arshad's personal Instagram account and her business account, XXX.

The Allegation and the Doctor's Response

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

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

1. In the social media account as specified in Schedule 1, you:
 - a. advertised or otherwise allowed your services to be advertised in the administration of intravenous infusions, including but not limited to vitamins and/or supplements ('IV infusions'); **Admitted and found proved**
 - b. published or otherwise allowed the publication of:
 - i. content that made claims as to the efficacy and/or clinical benefits of the IV infusions, as outlined at Schedule 2 ('the Claims'); **Admitted and found proved**
 - ii. the reference of your status, on at least one occasion, as a "...GMC certified Doctor..." to lend credence to the Claims. **Admitted and found proved**
2. Your actions as outlined at:
 - a. paragraph 1.a and 1.b were potentially exploitative in the context of the Covid-19 pandemic; **Admitted and found proved**
 - b. paragraph 1.b.i were inappropriate in that they exposed patients to the unnecessary risk of intravenous injections. **Admitted and found proved**
3. The Claims were:
 - a. untrue; and **Admitted and found proved**
 - b. known by you to be untrue. **To be determined**
4. Your actions as described at paragraph 1.a and 1.b were dishonest by reason of paragraph 3. **To be determined**

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

The Admitted Facts

7. At the outset of these proceedings, through her Counsel, Mr Alan Taylor, Dr Arshad made admissions to some paragraphs and sub-paragraphs 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.

The Facts to be Determined

8. In light of Dr Arshad's response to the Allegation made against her the Tribunal is required to determine whether the claims made by Dr Arshad were known by her to be untrue and whether her actions were dishonest.

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:

- Mr J, dated 4 August 2023;
- Mr K, dated 6 January 2022.

10. Dr Arshad provided her own witness statement, dated 30 November 2023 and also gave oral evidence at the hearing.

11. The Tribunal also received eight testimonials on behalf of Dr Arshad from the following people who are all colleagues in her current role and are aware of the Allegations:

- Ms C, dated 23 October 2023;
- Ms D, dated 23 October 2023;
- Ms E, dated 3 November 2023;
- Mr L, dated 4 November 2023;
- Ms G, dated 4 November 2023;
- Ms H, dated 6 November 2023;
- Professor B, dated 6 November 2023;

- Dr I, dated 6 November 2023.

Expert Witness Evidence

12. The Tribunal also received expert witness evidence from Professor A, a Clinical Pharmacologist on the specialist GMC register for Clinical Pharmacology and Therapeutics, and General Internal Medicine and presently an Emeritus Professor of Clinical Pharmacology in the University of Cambridge.

13. Professor A was called by the GMC and provided an expert report, dated 26 April 2022 and a supplemental expert report, dated 4 August 2022. Professor A's evidence was directed at assisting the Tribunal in understanding whether the treatments being offered / administered by Dr Arshad were prescription only medicines ('POMs') and whether Dr Arshad had adhered to any relevant guidance. It was also directed at assisting the Tribunal in understanding whether the claims for health and medical benefits made by Dr Arshad were evidence-based and whether Dr Arshad's posts and claims, made on social media about the treatments, were misleading.

14. Professor A, in his expert report, opined that Dr Arshad's prescription and administration of the IV infusions did not appear to be justified by clinical need. He also found that the efficacy claims in the list of diseases treated by Dr Arshad's infusions were not evidence-based and stated that many were unsubstantiated. His overall view was that the efficacy claims in the list of diseases treated by Dr Arshad's were not evidence-based and many are quite implausible pharmacokinetically.

Documentary Evidence

15. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to:

- Telephone note – call from GMC to Intravita, dated 15 June 2021;
- Screenshot of Dr Arshad's personal Instagram Account, undated (DA1);
- 'XXX' Documents provided by Dr Arshad to the GMC, undated (DA2);
- Video recording published to Dr Arshad's Instagram Account [54 seconds] , undated (DA3);
- Video recording published to Dr Arshad's Instagram Account [17 seconds] , undated (DA4);
- Video recording published to the XXX Instagram Account [1 minute 16 seconds], undated (DA5);

- Video recording published to the XXX Instagram Account [54 seconds], undated (DA6);
- Screenshots of the XXX Instagram Account, dated 5 May 2021 and 9 December 2021 (DA7);
- Screenshots of the XXX Instagram Account, 9 December 2021 (DA8);
- Email from Dr Arshad to the GMC, dated 24 January 2022;
- Intravita Documents provided by Dr Arshad to the GMC:
 - a. Website Screen-shot;
 - b. IVNT training materials;
 - c. Information and marketing guide;
 - d. IV private prescription template;
 - e. Therapeutic applications;
 - f. Medical history questionnaire and informed consent form;
 - g. Aftercare form.
- XXX Documents provided by Dr Arshad to the GMC including:
 - Contract for social medial management services;
 - Communication of Intravita information and marketing guide to social medial management service [PARTIAL REDACTION].
- Dr Arshad C.V.;
- Intravita Certificate, dated 13 January 2021;
- Intravita Marketing Guide, dated 2021;
- Bank Statement – Ms N, dated April – May;
- Bank Statement – Ms O, dated August – November;
- Bank Statement – Ms P, dated August – January.

The Tribunal's Approach

16. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Arshad does not need to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e., whether it is more likely than not that the events occurred.

17. According to the Fitness to Practice Rules, any facts which are admitted by the doctor at the outset of the hearing are provided by virtue of being admitted, in this case, allegations 1, 2 and 3a. The Tribunal must consider the evidence now in relation to whether or not allegation 3b and 4 is proved in relation to actions described in paragraphs 1a and 1b(i).

18. The Tribunal took into consideration that the balance of probabilities was a single and unvarying standard. The case of *Re B children [2008] UKHL 35 ('Re B')* confirmed that, while

the seriousness of an Allegation, or its consequences, may necessitate more careful consideration of the evidence, it does not affect the test to be applied. Lord Hoffman in *Re B* said:

‘There is only one rule of law, namely that the occurrence of the fact in issue must be proved to have been more probable than not. Common sense, not law, requires that in deciding this question, regard should be had, to whatever extent appropriate, to inherent probabilities.

19. In *Re H and Others (Minors)(1996) AC 563* it was held that the inherent improbability of an event is itself a matter to be taken into account when weighing the probabilities and deciding whether, on balance, the event occurred. Lord Nicholls stated:

“The more improbable the event, the stronger must be the evidence that it did occur before, on the balance of probability, its occurrence will be established”.

20. In assessing a witness’s credibility, the Tribunal reminds itself that it should not assess witness credibility exclusively on the demeanour of the witness when giving their evidence, but their veracity should be tested by reference to objective facts proved independently in their evidence, in particular, by reference to the documents in the case. The Tribunal should make a rounded assessment of a witness's reliability, rather than approaching their reliability in respect of each charge in isolation from the others: *R (on the application of Dutta) v GMC [2020] EWHC 1974 (Admin)*.

21. It is open to the Tribunal not to rule out the whole of a witness’s evidence based on credibility; credibility could be divisible: *Khan v The General Medical Council [2021] EWHC 374 (Admin)*.

22. As to individual pieces of evidence, the Tribunal is entitled to draw proper inferences - to come to common sense conclusions based upon the evidence which it accepted as reliable; but it must not speculate. Similarly, the Tribunal should not speculate about what other evidence there might have been. The Tribunal should only draw an inference if it could safely exclude other possibilities: *Soni v GMC (2015) EWAC 0364 Admin*.

23. For the purposes of this Tribunal Dr Arshad is of good character. Her good character is relevant to the Tribunal’s considerations in two ways. Firstly, the Tribunal should take into account her good character when considering whether it accepts what she has told the Tribunal in her evidence. Secondly, the fact that the doctor has not acted this way in the past

may make it less likely that she acted as alleged against her. This was often referred to as ‘propensity’, a tendency to behave in a particular way.

24. Dr Arshad’s good character is not a defence to the Allegation, it is one factor to take into account when considering all of the evidence in the round. What weight should be given to the doctor’s good character and the extent to which it assists on the facts of this particular case will remain a matter for the Tribunal to decide.

25. The Tribunal has regard to the Supreme Court judgment in the case of Ivey v Genting Casinos (UK) Limited [2017] UKSC 67, in which Lord Hughes set out the correct test for dishonesty, which is as follows:

‘When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.’

The Tribunal’s Analysis of the Evidence and Findings

26. The Tribunal has considered each outstanding paragraph of the Allegation separately and has evaluated the evidence in order to make its findings on the facts.

27. Following her registration, Dr Arshad had not yet obtained work save for some voluntary work and a clinical attachment where she was introduced to IVNT by one of her supervising doctors. Following his encouragement, she took an Intravita course and set up the business which would be her sole source of income at a time when she was not earning and living at home.

28. The Tribunal first formed a view of Dr Arshad’s credibility. The Tribunal considered Dr Arshad’s witness statement in which she stated, *‘At an early stage of my career I developed an interest in aesthetic medicine and health and wellbeing, principally with Intravenous Nutritional Therapy [‘IVNT’].’* This was notably different to her oral evidence in which she stated that she had no interest in aesthetics prior to learning about the business from a

colleague. The Tribunal also noted that Dr Arshad stated that she was only interested in the number of bookings she was getting rather than the way in which the business was being advertised. This evidence would suggest that this was more of a business strategy than a genuine interest.

29. When asked about her own Instagram account, Dr Arshad initially stated that she has not posted anything on her own page since November 2020. She stated she was able to post simple pictures and videos of food, family and friends but would not know how to write over the videos and needed assistance with this. The Tribunal had regard to the exhibit DA4 (Video recording published to Dr Arshad's Instagram Account [17 seconds] , undated). When asked, Dr Arshad explained that this had been created by her before she began the business and before Ms N's employment commenced and accepted that this was after November 2020. She stated that the items were posted to social media before she had her own patients, and it was her attempt to share her services with her personal Instagram followers, who she said were family and friends. The Tribunal accepted that this was an innocent posting that occurred before she went forward to set up and market her business using Ms N's services.

30. On reviewing Dr Arshad's personal Instagram account, the Tribunal noted that there were a number of short videos with writing and illustrations contained on them. The Tribunal accepted her evidence and determined that the posts pertaining to IV infusion on this account were created by her. Dr Arshad's initial account was that she had not posted anything on her personal Instagram account after November 2020 and that she had limited knowledge of creating posts with writing on them. However, in her oral evidence, she accepted that the IV infusion video on her personal Instagram account must have been added in 2021 and accepted that the videos with illustrations such as '*work hard, play harder*' were of her own making.

31. Dr Arshad's account is that due to her limited knowledge of posting content, she employed Ms N as a 'Social Media Content Creator and Manager' for which she was paid. Dr Arshad maintains that once she had sent the Intravita manual to Ms N she did not check the account again and therefore was unaware of what was being posted by her on the DD page. She explained that logging in would cause problems for Ms N to access the account as only one person could be logged in at any one time, which would then require a onetime pass code to be sent to the other person within 30 second to regain access. She explained therefore that she did this only a few times with the sole purpose of obtaining some patient details that may have been missed and not to check the posts being put up by Ms N. She stated that she trusted her experience as a content creator and felt that this was working as she started, and continued to receive patients for IV infusion on a daily basis, therefore the reason for Ms N's employment was proving fruitful.

32. The Tribunal viewed the posts on Dr Arshad's personal account against the different posts that followed with the 'XXX' logo contained within her business account (DA3- Video recording published to Dr Arshad's Instagram Account [54 seconds], undated) and accepted Dr Arshad's account that she employed another person to create and post onto the 'XXX' Instagram page to advertise the business.

33. However, the Tribunal did not accept that Dr Arshad, albeit employing someone to post on and manage the account, would not check the account, at the very minimum, at the early stages to ensure that the page was set up properly and was generating interest.

34. The Tribunal was therefore of the view, in light of this being Dr Arshad's first employment and first ever business, that it was improbable that she would not have checked the DD Instagram page at the beginning stages of this being set up and running. Having heard Dr Arshad's evidence, the tribunal concluded that as she did not have any work or any patients when the business was first set up, she would have had ample time to review and amend posts, and work with Ms N to ensure that the page was up and running and to her liking. Therefore, the Tribunal considered that, on the balance of probabilities, Dr Arshad would have looked at the account in the early stages, at least for the first two weeks of the account being set up. It determined that she must have had some involvement at least to approve the logo before it went live and to check the style of posts that Ms N was posting. Thereafter, the Tribunal could not be sure when Dr Arshad had stopped looking at the posts made by Ms N.

35. The Tribunal noted that many of the posts were undated however made reference to dates and others made reference to a number of weeks, suggesting how long ago the posts would have been added to the page.

36. The Tribunal was mindful of the witness statement of Mr K, dated 06 January 2022, in which he stated:

'I attach several screenshots I took on 5 May 2021 and 9 December 2021 of posts made by the 'XXX' Instagram account as Exhibit DA7 in which specific claims are made about the properties of the drips offered and/or their efficacy as treatments for particular medical conditions.'

37. He also stated:

'There are several other claims made on the 'XXX' Instagram account including that the drips can help with weight loss therapy, boost athletic performance and recovery, strengthens the immune system, energy boost after Covid, helps with pregnancy fatigue. I attach a range of screenshots taken on 9 December 2021 showing these claims as Exhibit DA8.'

38. It was unclear from this evidence what date Mr K looked at and obtained screen shots of DA7 (Screenshots of the XXX Instagram Account, dated 5 May 2021 and 9 December 2021). However, after considering the posts in DA7, the Tribunal formulated the view that this must have been in December 2021 as images made reference to 42 weeks, placing these at around March 2021.

39. The Tribunal also considered Dr Arshad's witness statement, dated 30 November 2023, which stated

'As stated above, I became aware of the false claims in May 2021, and kept an eye on the posts made by the Instagram account ever since. As stated above, [Ms O] would send me drafts for approval and when [Ms P] was employed in the role, I monitored the posts to ensure they were accurate. I am confident that no false claims were made after [Ms N] was dismissed. However, after reviewing the documents provided by the GMC, specifically, Exhibit's DA7 and DA8, I can see screenshots of the Instagram account taken in December 2021 which show false claims made in February and March. Whilst the year is not provided, I assume these were from February 2021 and March 2021 as they were taken prior to 2022. This means they were posted by [Ms N], before [Ms O] or [Ms P] were recruited.'

40. The Tribunal accepted, in line with Mr K's evidence and that of Dr Arshad that all material, relevant to the Allegation, was posted in February and March of 2021 and no later than May 2021 after Dr Arshad was contacted by the GMC.

Paragraph 3(b)

41. The Tribunal's approach was to consider each post falling within Schedule 2 and assess its content in order to determine whether or not Dr Arshad knew these to be untrue at the time.

No 1 - DA3 – Video recording published to Dr Arshad's Instagram Account [54 seconds], undated

42. The Tribunal noted the video created by Dr Arshad, which she stated she sent to Ms N for posting at Ms N's request.

43. The Tribunal was mindful of Professor A's expert report, dated 26 April 2022, in which he stated *'She [Dr Arshad] goes on to state that because they are given IV, recipients are "guaranteed" to see effects in 2-3 days. This claim is unsubstantiated and assumes that bioavailability is limiting for the onset kinetics of drug effects, which is simplistic and again misleading.'* Therefore, it was his view that such claims are not substantiated.

44. The Tribunal noted that Professor A did not address the matter of *"covering all medical conditions"*. However, the main concern that the Tribunal had in respect of the video was the wording: *"we cover all medical conditions...we can tailor make the IV drips to help with any medical conditions that you guys are suffering from"*.

45. The Tribunal noted that the Intravita guidance pack uses the word *'CONDITION'* (page 145-148) when listing a table of medical conditions. However, it also noted that within the Intravita guidance pack, it states *"no medical claims are permitted!"*, this is stated three times and in red text. In the marketing pack it also states, *"If you are making medical claims or treating medical conditions with IV Medicines, you will fall within the remit of the CQC"*. The Tribunal considered that this message would have also been repeated in the training that Dr Arshad had undertaken.

46. In oral evidence, Dr Arshad said that the words in the video were *"entirely her own"*. Dr Arshad stated that she genuinely believed the content of the video to be true, but that she had learnt this was not the case upon reading Professor A's report. However, Dr Arshad later said that she had used the terms *"conditions"* as referring to symptoms such as low energy. She also denied making any medical claim to treat a condition. The Tribunal was mindful that these explanations contradicted each other.

47. The Tribunal had considered the Intravita guidance pack and the marketing pack, both of which Dr Arshad said she was familiar with. The Tribunal also took into account the period of training that Dr Arshad underwent with Intravita, which included learning and an online exam.

48. The Tribunal determined that, as a doctor, Dr Arshad would have known that the IV drips as advertised would not improve medical conditions. It was clear from the guidance what the administrator of the IV infusion must not do in relation to medical claims.

49. The Tribunal took the view that Dr Arshad knew that the claims being made in her video post were untrue. It reminded itself of Dr Arshad's evidence that she had read the documentation provided by Intravita and therefore should have seen that whilst the material provided by Intravita implies that the IV drips can be used to treat or help conditions, it explicitly states that *'no medical claims should be made or medical conditions treated'*. It considered that there was sufficient information made available to her in the materials provided by Intravita and in the training she said she had received to inform Dr Arshad that she could not make claims about medical conditions. The Tribunal recognised that the documentation provided by Intravita is unclear at times as it uses the term *'conditions'* in various places. However, it considered that Dr Arshad would have had enough medical training and education from her medical degree to know, regardless of the documentation provided by Intravita, that the medical claims she was making were not true. The Tribunal did not therefore accept that this was a mere oversight.

50. Given Dr Arshad's medical degree, Masters qualification and her evidence that she was considered to be overqualified for junior positions, the Tribunal did not accept Dr Arshad's evidence that she was referring to symptoms. It was satisfied that she was referring to *"medical conditions"* which she was prohibited from doing by Intravita in various training and marketing materials provided.

51. The Tribunal therefore determined, on balance of probabilities, that the claims made by Dr Arshad in the social media account as specified in No. 1 of Schedule 2 were known by her to be untrue. It found this proved.

No.2

52. Dr Arshad stated in her evidence that it was Ms N who posted the posts on the DD page. She stated that Ms N would often find information from google or from other similar companies in the US. The Tribunal considered Professor A's expert report which stated that the absorption claims made were correct pharmacokinetically. It noted that Dr Arshad stated that she did not know this had been posted by Ms N. The Tribunal had no evidence before it to show that the initial marketing pack from Intravita had been sent to MS N as stated by Dr Arshad however it noted that the GMC had not put forward anything to rebut this contention. The Tribunal had no reason to disbelieve the account presented by Dr Arshad on this matter. The Tribunal had sight of the Engagement of Services letter signed by both Dr Arshad and Ms N, dated 01 February 2021. It found paragraph 1(iii) to be relevant:

'The Executive [Ms N] will use and rely on the information supplied by the Client [Dr Arshad] to solicit and introduce prospective companies to the Client. The Client will not

provide false information or misrepresent in any manner to the Executive, or withhold any information or details of any kind from the Executive that may be relevant to the Project and/or can have any impact on the outcome of the Project.'

53. The Engagement of Services letter also states, *'The Parties wish to enter into a business relationship whereby the Executive would manage the Clients Online Social Medial Profile and other areas of business hereinafter referred to as the 'Project', against remuneration on the terms and conditions set out in Clause 3 of this Agreement.'* The Tribunal understood the term 'manage' to mean that there was the perception of relinquishing responsibility of the *Online Social Medial Profile* to Ms N so that she could manage the account. However, it did not find it plausible that Dr Arshad would not check in with Ms N at the very least, at the early stages, to make sure she was still posting and doing her job before she began receiving bookings for IV infusions.

54. The Tribunal noted that this post was not dated and therefore it could not be sure when the post was made. If this could not be said to be made in the early stages of the business, then the Tribunal could not be certain whether Dr Arshad had viewed it. By virtue of Mr K's evidence, this falls between evidence that he captured on 5 May meaning that it could have been posted at any time between February 2021 when Ms N was employed and 5 May 2021. The Tribunal was therefore not satisfied as to whether this was viewed by Dr Arshad or if it was part of the original setting up of the Instagram account which the Tribunal determined she would have been aware of.

55. The Tribunal therefore found that the claims made by Dr Arshad in the social media account as specified in No. 2 Schedule 2 were not known by her, at the time, to be untrue. It found this to be not proved.

No.3

56. The Tribunal viewed Dr Arshad's witness statement, dated 30 November 2023, coupled with Mr K's statement which suggested that only DA8 (Screenshots of the XXX Instagram Account, 9 December 2021) was viewed and a screenshot taken, on 9 December 2021. However, in view of the time stamp on DA7 (Screenshots of the XXX Instagram Account, dated 5 May 2021 and 9 December 2021), it concluded that this also must have been seen on 9 December 2021. The Tribunal considered all other posts to have been observed on 5 May 2021 by the GMC. The Tribunal accepted Dr Arshad's account that those posts which remained must have related to 2021 and within a period during which Ms N was employed.

57. The Tribunal considered Dr Arshad's evidence that she had not seen No. 3 contained within the information by Intravita. Dr Arshad stated that Ms N would have obtained this from other sources as she was obtaining materials from google and other companies in the U.S. Dr Arshad commented that this information was bizarre. Again, this post was undated with no indication of how long ago it might have been posted. On that basis, the Tribunal could not be satisfied when, prior to the GMC viewing this on 5 May 2021, it was posted. It could not therefore be satisfied, on the balance of probabilities, that Dr Arshad was aware of this post. The Tribunal based its decision on the following factors: this was potentially four months after Dr Arshad had commenced providing treatment; Dr Arshad was busy with patients, sometimes travelling long distances to see them; and she was using her time to complete the preliminary telephone consultation.

58. The Tribunal therefore found that the claims made by Dr Arshad in the social media account as specified in No. 3 Schedule 2 were not known by her to be untrue. It found this to be not proved.

No.4

59. The Tribunal was mindful of the page within the Intravita materials with a list of 'Relative Contraindications' and 'Absolute Contraindications'. It was satisfied that Dr Arshad had read this and was aware of the potential risks to individuals. This coupled with Dr Arshad's evidence, that prior to meeting with patients, she would have a structured telephone consultation with them in which she would assess their suitability for treatment, and use a checklist relating to allergies, past medical conditions, and why they would like to go ahead with the treatment. She stated she would look out for conditions such as epilepsy, kidney failure or heart conditions to rule out if the patients were ineligible for treatment. The Tribunal accepted Dr Arshad's evidence that she would carry out this consultation before proceeding to IV infusion.

60. Having considered this, the Tribunal was satisfied that the actions taken by Dr Arshad to ensure patient safety indicate that it is more likely than not that she had not seen the posts, otherwise she would have taken action to have these removed.

61. The Tribunal therefore found that the claims made by Dr Arshad in the social media account as specified in No. 4 Schedule 2 were not known by her to be untrue. It found this to be not proved.

No.5

62. The Tribunal was mindful of its conclusion at paragraph 34 of this determination that this was a picture seen on 5 May 2021. It described a happy coach and getting '*our immunity IV drip*'. This suggests that the picture was taken by Dr Arshad whilst administering the infusion or the immunity drip which, in accordance with the contract in place with Ms N, could have properly been sent to her, to post and thereon to create any accompanying marketing content. However, as there is no date stamp on this post, the Tribunal again could not be satisfied that this formed part of the earlier postings of which she is more likely than not to have been aware. The picture would support Dr Arshad's account that she was busy providing the infusions to patients and therefore had less time to check the Instagram account.

63. The Tribunal therefore found that the claims made by Dr Arshad in the social media account as specified in No. 5 Schedule 2 were not known by her to be untrue. It found this to be not proved.

No.6

64. Based on the format of the post, coupled with Dr Arshad's evidence and its observation of her personal Instagram posts, the Tribunal determined that this was a professionally constructed post more likely to have been posted by Ms N. It noted that the post was timed, however not dated. The Tribunal could not be satisfied that this was an early post and therefore Dr Arshad may not have seen it.

65. The Tribunal therefore found that the claims made by Dr Arshad in the social media account as specified in No. 6 Schedule 2 were not known by her to be untrue. It found this to be not proved.

No.7

66. Based on the format of the post, coupled with Dr Arshad's evidence, the Tribunal determined that this was a professionally constructed post more likely to have been posted by Ms N. This again was not dated. The Tribunal could not be satisfied that this was an earlier post and therefore may not have been seen by the doctor. The Tribunal also noted that within the post the term 'medical ailments' was used. It reminded itself that in the video on her page Dr Arshad used the term 'medical conditions' and therefore determined from the evidence before it that Dr Arshad did not make the post. The Tribunal considered the marketing material from Intravita and noted that, although some benefits are listed in that material, this post exaggerates the apparent benefits of the Myers cocktail. It determined, for these reasons, it is more likely that Ms N had extrapolated this information provided to her

and further exaggerated the claims made as reflected in the terminology used such as *'effective at treating a range of conditions'*.

67. The Tribunal therefore found that the claims made by Dr Arshad in the social media account as specified in No. 7 Schedule 2 were not known by her to be untrue. It found this to be not proved.

No.8

68. Based on the format of the post, coupled with Dr Arshad's evidence the Tribunal determined that this was a professionally constructed post more likely to have been posted by Ms N and or obtained from other sources. This was another undated post so the Tribunal could not be satisfied that this was an earlier post and therefore may not have been seen by the doctor. The Tribunal also noted that there was a tactical use of language, suggesting that this was more likely to have been made by an experienced content creator. In the Tribunal's view, it was one of the most professional posts from the evidence, which would support that it was either professionally created by Ms N or obtained by her from other sources.

69. As it was unable to establish a date of posting, The Tribunal found that the claims made by Dr Arshad in the social media account as specified in No. 8 Schedule 2 were not known by her to be untrue and found this not proved.

No.9

70. The Tribunal also noted that the logo on the top left of DA7 (Screenshots of the XXX Instagram Account, dated 5 May 2021 and 9 December 2021) 30-36 was different from XXX logo. This logo was an image of a hand holding some fruit and appears to have the same base pattern as that used on the XXX logo. It noted that both logos were being used at the same time as these appear on various posts. It was also observed that the simple logo was used as a tabbing system on the Instagram main page. The Tribunal was in any event satisfied that these logos were all part of the XXX instagram page.

71. The Tribunal was mindful of the date that the post was made which was 43 weeks prior to the 9 December 2021. This dates this post to around mid-March 2021. The Tribunal accepted that Dr Arshad was busy at this time travelling to see patients which makes it probable that she may not have seen the post. The GMC have put forward no evidence of any Instagram posts for DD after March 2021. The Tribunal had regard to the appearance of the post and noted that it was of a different style to previous posts, it determined that it was likely to have been taken from other sources. There was no evidence to suggest that Dr

Arshad made this post and rather, it was more likely than not, that Dr Arshad had not seen the post.

72. The Tribunal therefore found that the claims made by Dr Arshad in the social media account as specified in No. 9 Schedule 2 were not known by her to be untrue. It found this to be not proved.

No.10

73. The Tribunal was mindful of the date that the post was made which was 41 weeks prior to 9 December 2021. This dates this post to around the end of March 2021 at a time that Dr Arshad was travelling to see patients.

74. For the reasons above, there was no evidence to suggest that Dr Arshad made this post and rather, it was more likely than not, that Dr Arshad had not seen the post.

75. The Tribunal therefore found that the claims made by Dr Arshad in the social media account as specified in No. 10 Schedule 2 were not known by her to be untrue. It found this to be not proved.

No.11

76. The Tribunal noted that this post included the correct logo for Dr Arshad's business Instagram page. The layout of the post was professional and consistent with other posts.

77. The post was undated and therefore the Tribunal could not be satisfied as to the date of its creation and/or posting or that this forms part of earlier posts of which Dr Arshad would have been aware.

78. For the reasons above, there was no evidence to suggest that Dr Arshad made this post and rather, it was more likely than not, that Dr Arshad had not seen the post.

79. The Tribunal therefore found that the claims made by Dr Arshad in the social media account as specified in No. 11 Schedule 2 were not known by her to be untrue. It found this to be not proved.

No.12

80. The Tribunal noted that this post included the logo for Dr Arshad’s business Instagram page. The post included a photograph of patient who had an IV drip in their arm. The wording on the post says: *“Vitamin C to boost your immune system is great for the elderly! Helps protect them from coronavirus!”*

81. The Tribunal was mindful of the date that the post was made which was 47 weeks prior to 9 December 2021. This dates this post to around mid-February 2021, which is some two weeks into Ms N’s employment. The Tribunal noted that the company was not registered until 12 February 2021.

82. The Tribunal was of the view that the photograph was one of Dr Arshad’s patients and so Dr Arshad would have taken the photograph.

83. However, contrary to previous findings, the Tribunal determined that the layout of this post was of a more basic nature compared to other more professional posts. The style, format and font style all seemed to be different. The Tribunal also noted that the illustration was similar to the ‘work hard play hard’ illustration in a previous post (DA4- Video recording published to Dr Arshad’s Instagram Account [17 seconds] , undated) too, which was made by Dr Arshad on her personal account.

84. The Tribunal determined for these reasons that Dr Arshad must have posted No.12 directly onto the Instagram page or sent it to Ms N to be posted. This would have included the wording that Vitamin C helps to protect from coronavirus.

85. Overall, the Tribunal concluded that Dr Arshad was aware of this post in its entirety.

86. The Tribunal noted that Dr Arshad had previously admitted that the claim was untrue. This was supported by the expert report of Professor A, including that:

“Dr Arshad’s posts suggesting that vitamin C is an effective antiviral agent against influenza and Covid19 is unquestionably misleading and exploitative in the context of the recent Covid19 Pandemic. It is not evidence-based and designed to exploit patients fears about developing Covid19 related disease.”

87. The Tribunal reminded itself that this occurred at a time when the public was particularly vulnerable to misinformation in relation to Covid-19.

88. The Tribunal therefore found that the claims made by Dr Arshad in the social media account as specified in No. 12 Schedule 2 were known by her to be untrue. It found this proved.

No.13

89. The Tribunal noted that this post included the logo for Dr Arshad’s business Instagram page. The layout of the post was professional and consistent with other posts.

90. The post is undated, however the wording includes reference to “*Kick off your fit Feb with some help from...*”. It appeared to the Tribunal that, logically, this reference would mean that the post was made in early February 2021. The Tribunal concluded that it was therefore likely that Dr Arshad would have viewed this post based on its findings above.

91. The Tribunal had regard to the expert report of Professor A, including that:

“F. Exhibit DA8 contains clips and posts that make various claims including for weight reduction and ‘energy boosting’ effects of the IV infusions. They are all unsubstantiated and I cannot find any trials to support either of these specific claims. Use of a ketogenic diet is widely promoted for weight reduction but there is no evidence her IV infusions are able to produce ketosis per se let alone a ketotic state lasting the weeks to months that would be required to lose significant body weight.”

92. The Tribunal noted the use of the terms “*unsubstantiated*”, “*I cannot find any trials to support either of these specific claims*” and “*no evidence*”. Dr Arshad further admitted that this was untrue.

93. The Tribunal found that the claims made by Dr Arshad in the social media account as specified in No. 13 Schedule 2 were untrue. Dr Arshad is likely to have known that the claims were untrue. This was therefore found proved.

No.14

94. The Tribunal formed the view that No. 14 was a professionally created post and therefore likely to have been created by Ms N. However, the post was dated 3 February 2021. The Tribunal considered that it was therefore likely that Dr Arshad would have viewed this post, based on its findings above.

95. The Tribunal noted that the wording of the post included: *“With cases increasing, we urge everyone to calm down and take some Vitamin C. You can build up your immunity with our Vitamin C IV Drip.”*

96. The Tribunal noted the reference to Covid-19 and was of the view that there was a clear intention to market the product to the general public at a time of heightened anxiety.

97. The Tribunal considered that this post also bore a resemblance to post No.12, referred to above, which also related to Covid-19 and which the Tribunal had found was created by Dr Arshad. This post was also in the same time period, which was in early/mid-February 2021.

98. The Tribunal had regard to Professor A’s comments in relation to Covid-19 as stated above.

99. The Tribunal did not accept that Dr Arshad had only become aware that the content of this post was untrue when she saw the findings of the expert report. The Tribunal was of the view that, as a doctor, Dr Arshad would have known of no supportive evidence for Vitamin C having antiviral properties.

100. The Tribunal therefore found that the claims made by Dr Arshad in the social media account as specified in No. 14 Schedule 2 were known by her to be untrue. It found this proved.

No.15

101. The Tribunal noted that this post included the correct logo for Dr Arshad’s business Instagram page. The layout of the post was professional and consistent with other posts. It also noted that the post says that it was created in Manchester, UK, within the heading of the post.

102. However, as the post was undated, the Tribunal could not be satisfied as to the date of its creation and/or posting.

103. For the reasons above, there was no evidence to suggest that Dr Arshad made this post and rather, it was more likely than not, that Dr Arshad had not seen the post.

104. The Tribunal therefore found that the claims made by Dr Arshad in the social media account as specified in No. 15 Schedule 2 were not known by her to be untrue. It found this to be not proved.

No.16

105. The Tribunal noted that this post was undated and included a photograph of someone with an IV drip in their arm. The wording of the post includes: *“[Patient] has suffered through Covid and she really needed that energy boost... Our Energy Boost IV drip includes: a mix of IV fluids, electrolytes and vitamins to help boost your energy levels and improve your overall health and wellness”*.

106. The Tribunal noted that the language in the post referred to an *“energy boost”* and appeared to be professionally written.

107. The Tribunal correlated this picture at the No.16 post with the video it had been provided with (at DA6- Video recording published to the XXX Instagram Account [54 seconds], undated) a feedback video that a patient had sent to the XXX Instagram page. The video makes reference to long Covid and an implicit suggestion that the drip could be interpreted as being a potential cure for long covid. However, the video went on to make it clear that the drip could be used for many other reasons including an *“energy boost”*.

108. The Tribunal noted that the feedback was posted 37 weeks prior to 9 December 2021, however this did not mean that the No.16 post was posted on the same date. The picture of the same female and the accompanying text could have been posted before or after the feedback was received.

109. In the absence of a date of the post, the Tribunal could not be satisfied that Dr Arshad would have seen the words used in the post, created by Ms N. In any event, the Tribunal noted that although the patient generated post did mention Covid, the message that came across was that the IV drip could be used as an *“energy boost”*. The Tribunal concluded that this was not untrue.

110. The Tribunal therefore found that the claims made by Dr Arshad in the social media account as specified in No. 16 Schedule 2 was not untrue. It therefore could not have been possible for Dr Arshad to have known the claims were untrue. It found this to be not proved.

No.17

111. The Tribunal was mindful of the date that the post was made which was 39 weeks prior to 9 December 2021. This dates this post to around the end of April 2021. The post includes: *“How does it work?”* and reference to reducing portion sizes and boosting metabolism.

112. The Tribunal was of the view that the post did not take the form of previous posts and could fit the pattern of Ms N finding content to post. Based on the timestamp and format of the post, the Tribunal could not be satisfied that Dr Arshad saw the post. Overall, the Tribunal determined that there was no evidence to suggest that Dr Arshad made this post and rather, it was more likely than not, that Dr Arshad had not seen the post.

113. The Tribunal therefore found that the claims made by Dr Arshad in the social media account as specified in No. 17 Schedule 2 were not known by her to be untrue. It found this to be not proved.

No.18

114. The Tribunal noted that this post was undated and included reference to a patient feeling unwell prior to, and during, her pregnancy and that the Myers Cocktail IV Drip was recommended for her. Also, that *“it helps with pregnancy fatigue and leaves you feeling full of energy!”*

115. The Tribunal correlated this picture at the No.18 post with the video it had been provided with at DA6 (Video recording published to the XXX Instagram Account [54 seconds], undated) a feedback video that a patient had sent to the XXX Instagram page, which is the same as in respect of the No.16 post. The Tribunal concluded that the No.18 post was a picture taken by Dr Arshad when providing IV infusion. The feedback was posted 37 weeks prior to 9 December 2021 and stated:

“Dr R first reached out to me when she saw how unwell I had been prior to and during my pregnancy and told me about the benefits of the drips she offers.”

116. The Tribunal was concerned by the references made in the feedback page to the patient saying: *“So today I got a modified Myers drip which is a pregnancy multivitamin drip”*. The Tribunal referred to the Intravita manual, which set out that no drips should be given to patients who are pregnant - it was an *“absolute contraindication”*. However, the Tribunal inferred from the feedback post that the IV infusion was given post pregnancy.

117. Notwithstanding that the post was in direct contradiction of the Intravita guidance, in the circumstances, the Tribunal could not be satisfied when the picture and caption at No.18 was posted, i.e. whether it was before or after the feedback video was posted.

118. Therefore, the Tribunal could not be satisfied whether Dr Arshad had told Ms N to post referencing pregnancy or whether Ms N had created the wording herself following receipt of the feedback. In any event, the absence of a date stamp on the post could not satisfy the Tribunal that Dr Arshad viewed this post during the early stages of the business being set up.

119. The Tribunal therefore found that the claims made by Dr Arshad in the social media account as specified in No. 15 Schedule 2 were not known by her to be untrue. It found this to be not proved.

Paragraph 4

120. The Tribunal considered whether Dr Arshad's actions as described at paragraph 1(a) and 1(b) were dishonest by reason of paragraph 3.

1a

121. The Tribunal noted that Dr Arshad admitted allowing her services to be advertised. Of those advertisements, the Tribunal determined that only posts No.1, No.12, No.13 and No.14 of Schedule 2 were untrue. It would then go on to consider whether these posts were dishonest.

1b(i)

122. Given the Tribunal's findings above, the Tribunal had to have regard to the claims made in respect of posts: No.1, No.12, No.13 and No.14 which it found to be untrue. All other parts of paragraph 3(b) of the Allegation were found not proved and so did not form part of the Tribunal's consideration in respect of paragraph 4 of the Allegation.

123. The Tribunal had regard to the number and content of the testimonials presented on behalf of Dr Arshad. These were prepared by her current colleagues in the knowledge of current Allegations. It noted that her colleagues consider her to be an honest and valued member of the team who had no issues with Dr Arshad's probity.

124. The Tribunal was also satisfied that Dr Arshad is of good character with no previous concerns raised by any regulatory body.

No.1

125. The Tribunal turned to the test set out in Ivey and considered first the subjective limb of the test. The Tribunal recalled that Dr Arshad had given evidence that she thought this information was true before she read the expert's report, which was the account she provided in her written statement. She later stated that by using the words conditions, she was referring to symptoms such as low energy. This was mentioned for the first time in evidence. The Tribunal considered that given these two differing accounts which were contradictory to each other, it was unlikely that Dr Arshad held a genuine belief that she referred to symptoms. Further, in view of the amount of information made available to Dr Arshad in the course and the materials provided by Intravita which explicitly states *that 'no medical claims should be made or medical conditions treated'*, the Tribunal determined that it could not have been her genuinely held belief at the time that it was acceptable to use the term medical conditions. It determined that she knew not to use the term medical conditions.

126. In considering the objective test, the Tribunal also found that Dr Arshad's actions would be considered dishonest by the standards of ordinary, decent people if they were to be informed of all the circumstances of this case. The Tribunal considered that a typical person seeing and hearing this comment made by a GMC registered doctor, being aware of the Intravita guidance and the limitations of those that administer IV infusions, would consider this to include all medical conditions. The use of the words such as 'suffering from' would also lead a reasonable person to believe that IV infusions would be able to treat any medical condition they had at the time rather than just a symptom such as low energy. It did not consider that the use of help rather than treat would be considered any differently by the reasonable person.

No.12, No.13 and No.14

127. The Tribunal found it difficult to ascertain what Dr Arshad's belief was in relation to these posts as she claimed to have been unaware of their posting or their contents. Having found this part of the allegation proved, the Tribunal was satisfied that Dr Arshad had created the post in No. 12 herself and that she was aware of the posts in No. 13 and No. 14 as well as the comments contained therein and had allowed Ms N to make such claims on her IV infusion business account.

128. The Tribunal went on to determine her belief at the time. As a qualified doctor, the Tribunal determined that she knew these claims to be untrue and that such IV infusions could not cure Covid-19. No reference is made to this in the training or marketing guidance, and it is very unlikely that the online training would make such bold claims. As a medically trained doctor, she would have been aware that Covid cases were rising and that such posts would exploit people's fears. The Tribunal also determined that Dr Arshad would have known about the ketogenic diet and that a single IV infusion would not result in weight loss which would take weeks or months on a ketogenic diet.

129. The Tribunal determined that a reasonable person possessed with all the facts, would consider Dr Arshad's post as dishonest.

130. It was submitted that there was no clear motivation for Dr Arshad to be dishonest as she was at an early stage of her career and would not put herself at risk. However, the Tribunal noted that she was not working at the time and had stated that she was more interested in the bookings she was receiving than checking the contents of her page. It was therefore satisfied that there was some financial motivation on Dr Arshad's part to post or allow this content to be posted.

131. The Tribunal has found that Dr Arshad's actions at paragraphs 1a and 1b(i) above were dishonest so far as they relate to No.1, No.12, No.13 and No.14 of Schedule 2. The Tribunal has therefore found Paragraph 4 proved.

The Tribunal's Overall Determination on the Facts

132. The Tribunal has determined the facts as follows:

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

1. In the social media account as specified in Schedule 1, you:
 - a. advertised or otherwise allowed your services to be advertised in the administration of intravenous infusions, including but not limited to vitamins and/or supplements ('IV infusions'); **Admitted and found proved**
 - b. published or otherwise allowed the publication of:
 - i. content that made claims as to the efficacy and/or clinical benefits of the IV infusions, as outlined at Schedule 2 ('the Claims'); **Admitted and found proved**

- ii. the reference of your status, on at least one occasion, as a “...*GMC certified Doctor*...” to lend credence to the Claims. **Admitted and found proved**
2. Your actions as outlined at:
 - a. paragraph 1.a and 1.b were potentially exploitative in the context of the Covid-19 pandemic; **Admitted and found proved**
 - b. paragraph 1.b.i were inappropriate in that they exposed patients to the unnecessary risk of intravenous injections. **Admitted and found proved**
3. The Claims were:
 - a. untrue; and **Admitted and found proved**
 - b. known by you to be untrue. **Determined and Found Proved in relation to 1a and 1b(i) (No.1, No.12, No.13 and No.14 of Schedule 2)**
4. Your actions as described at paragraph 1.a and 1.b (i) were dishonest by reason of paragraph 3. **Determined and Found Proved in relation to 1a and 1b(i) (No.1, No.12, No.13 and No.14 of Schedule 2)**

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

Determination on Impairment - 16/01/2024

133. The Tribunal must now decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out before, Dr Arshad’s fitness to practise is impaired by reason of misconduct.

The Evidence

134. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. In particular, the Tribunal considered the testimonials and the statement provided by Dr Arshad.

135. In addition, the Tribunal received the following further evidence:

- The Tribunal also received, on behalf of Dr Arshad, a witness statement from Dr M, Dr Arshad's Responsible Officer, dated 8 December 2023;
- Dr Arshad's Appraisal Certificate, dated 23 November 2022;
- Various CPD and Training Certificates, dated 13 December 2022.

Submissions

On behalf of the GMC

136. On behalf of the GMC, Ms Chloe Fairley, submitted that the Tribunal is obliged to consider if Dr Arshad's fitness to practise medicine is currently impaired. She submitted that there is no burden or standard of proof in this regard as it is a matter for the Tribunal's judgement.

137. Ms Fairley reminded the Tribunal of the two-stage process that they must follow to determine if Dr Arshad's fitness to practise is impaired; firstly, to consider whether her conduct amounted to serious professional misconduct and, if so, whether Dr Arshad's fitness to practise is impaired as a result.

138. Ms Fairley referred the Tribunal to the following paragraphs of Good Medical Practice (2013) ('GMP') which she submitted were relevant in this case:

1. *Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.*
12. *You must keep up to date with, and follow, the law, our guidance and other regulations relevant to your work.*
65. *You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.*
68. *You must be honest and trustworthy in all your communication with patients and colleagues. This means you must make clear the limits of your knowledge and make reasonable checks to make sure any information you give is accurate.*

70. *When advertising your services, you must make sure the information you publish is factual and can be checked, and does not exploit patients' vulnerability or lack of medical knowledge.*

139. Ms Fairley reminded the Tribunal of the case of *General Medical Council v Dr Nwachuku [2017] EWHC 2085 (Admin)* which established that dishonesty will usually lead to a finding of current impaired fitness to practice.

140. Ms Fairley submitted that the dishonesty found proved in this case does not represent a momentary lapse of judgement. She submitted that Dr Arshad has intentionally marketed a product to the general public at a time of heightened anxiety, using claims that she knew to be untrue. Ms Fairley submitted that, as Dr Arshad has accepted, and as the GMC expert opined, the claims were potentially exploitative and exposed patients to unnecessary risk. She submitted that this conduct would undoubtedly be considered deplorable by fellow practitioners and indeed the wider public.

141. Ms Fairley submitted that the posts which the Tribunal have found Dr Arshad may not have been aware of are nevertheless relevant to the consideration of misconduct and impairment. She submitted that the responsibility for following the regulations lay entirely with Dr Arshad. She had an obligation to act in accordance with Good Medical Practice.

142. Ms Fairley submitted that the content being put into the public domain to entice patients to use the service, should have been of the utmost importance to Dr Arshad. She submitted that this was not a single post made in error and corrected. She submitted that the claims included, as Mr Taylor put it, claims that no self-respecting doctor would allow to be made. Ms Fairley submitted that Dr Arshad's absence of care as to what was being claimed, demonstrates a clear, and repeated, disregard for Good Medical Practice and her obligations as a doctor.

143. Ms Fairley submitted that Dr Arshad's lack of care about what was being posted is compounded by her failing to remove posts which involved misleading and untrue claims even after she had been alerted to them by the GMC. Ms Fairley submitted that Dr Arshad states she removed some but missed others that were less 'obvious' to her. In the circumstances removal of the posts should have been a priority and an exercise which was rigorously carried out.

144. Ms Fairley submitted that, in terms of the seriousness of the misconduct, the Tribunal have the opinions expressed by Professor A in his expert *report, dated 4 August 2022*. She

reminded the Tribunal that he was provided with all the material which falls within Schedule 2 and indeed the additional videos DA4 and DA5. He concluded that:

“The information being provided in these exhibits is misleading and at points simply incorrect. It also makes claims for efficacy and onset kinetics of her ‘Drips’ that are unsubstantiated and highly misleading. In doing so, her patients cannot make informed decisions about whether to receive the ‘Drips’ or not. This behaviour falls seriously below the level of care expected from a GMC registered doctor offering this type of service.”

“The advice / recommendations for IV vitamins being offered on pages 2-5 of Exhibit DA7 is misleading and in parts even contradicts NHS advice by suggesting the IV infusion is better than a simple oral supplement (which would only be correct if the patient had malabsorption). Giving this information falls seriously below that expected from a GMC registered doctor offering this type of service and advice.”

“The advice / recommendations for Myer’s IV cocktail and vitamin C offered on pages 8-17 of Exhibit DA7 is at best misleading or simply incorrect. Giving this information falls seriously below that expected from a GMC registered doctor offering this type of service and advice.”

“Dr Arshad’s posts suggesting that vitamin C is an effective antiviral agent against influenza and Covid19 is unquestionably misleading and exploitative in the context of the recent Covid19 Pandemic. It is not evidence-based and designed to exploit patients fears about developing Covid19 related disease.”

145. Ms Fairley submitted that the Tribunal have expert evidence indicating that the posts in schedule 2 represent conduct which falls seriously below the standards expected. Including claims which were exploitative during an unprecedented pandemic.

146. Ms Fairley reminded the Tribunal of the test for impairment as set out by Dame Janet Smith in the 5th Shipman report and adopted in *CHRE v NMC and Paula Grant [2011] EWHC 927*. Ms Renton submitted that Dr Arshad’s conduct engaged three limbs of that test:

‘a) ...

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.'*

147. Ms Fairley submitted that the claims made by Dr Arshad were precisely designed to be put out into the public domain. There was reference to Dr Arshad being a 'GMC certified doctor'. She submitted that misleading and untrue information being provided by a registered doctor, strikes at the very heart of public confidence in the profession.

148. Ms Fairley submitted that Dr Arshad has accepted responsibility, albeit in a qualified way. However, she stated that there is nothing within the witness statement or stage 2 bundle to indicate that Dr Arshad has fully appreciated the impact of her actions on the wider profession and the reputation of the profession as a whole. Therefore, Ms Fairley submitted that Dr Arshad's insight could not yet be demonstrated to be complete. She reminded the Tribunal that Dr Arshad has undertaken courses, but these had all been completed on one day. Therefore, they could not be said to represent a comprehensive programme of remediation.

149. Ms Fairley submitted that Doctors occupy a position of privilege and trust in society and are expected to uphold proper standards of conduct. Members of the public are entitled to place complete reliance upon doctors' honesty. The relationship between the profession and the public is based on the expectation that medical practitioners will act at all times with integrity. Dishonesty, even where it does not result in actual harm to patients, is particularly serious because it can undermine the public's trust and confidence in the medical profession.

150. Ms Fairley submitted that it was necessary for the Tribunal to make a finding of impairment in order to uphold public confidence in the profession. She also said that the Tribunal should consider if the need to uphold and maintain proper professional standards and the need to maintain public trust in the profession would be undermined if a finding of impairment was not made.

On behalf of Dr Arshad

151. Mr Alan Taylor, Counsel submitted that Dr Arshad recognises that the conduct which has been found proved against her amounts to serious professional misconduct. He submitted that Dr Arshad also recognises that, in light of the Tribunal having found her to have acted dishonestly in relation to the video and three Instagram posts in early February

2021, a finding of impairment will inevitably follow on the basis that the need to uphold proper professional standards and public confidence in the profession requires a finding of impairment to be made.

152. Mr Taylor submitted that, in terms of insight, Dr Arshad has engaged throughout with these proceedings, she has taken these proceedings very seriously, she made admissions to the majority of the allegations at the outset of the hearing, and she has accepted, even though she may disagree with, the findings of the Tribunal relating to her dishonesty.

153. Mr Taylor submitted that Dr Arshad denied the allegation of dishonesty, but she was entitled to do so. He submitted that Dr Arshad gave the Tribunal her account, which the Tribunal, in relation to numbers 1, 12, 13 and 14 of Schedule 2 rejected. He stated this would remain her account, but this was not incompatible with her having insight into the need in future to avoid being in a position where such conduct was likely to recur (*per Walker J in Amao v Nursing and Midwifery Council (2014) EWHC 147 (Admin)*).

154. Mr Taylor referred the Tribunal to Dr Arshad's reflective statement and submitted that she has insight where she states:

'I have accepted full responsibility for the posts and accept there are likely to be serious consequences for these posts being made on my business account. I am prepared to accept such consequences. However, this all occurred at the very outset of my medical career, and I have learned a lot through this process. I know now that I need to be more mindful and be in full control of my career, rather than leaving such important tasks to others. Therefore, I have left the private business behind, I am now focusing on my career as a doctor within the NHS. I frequently discuss the learnings from these events with Professor B who has been extremely supportive throughout.'

155. Mr Taylor submitted that Dr Arshad is not a doctor with an underlying, deep seated attitudinal problem. He submitted that Dr Arshad fully understands how the false claims that were made were wholly unacceptable, and she fully understands how her actions have impacted on public confidence in the profession and on the need to promote and maintain proper standards of conduct and behaviour for the members of the profession.

156. Mr Taylor submitted that the most serious of findings against Dr Arshad is that she acted dishonestly in relation to publishing or allowing the four claims about the efficacy of the IV drips to be published on her Instagram business account. He submitted that without seeking to minimise the seriousness of dishonesty found proved by the Tribunal in this case, this dishonesty is remediable. Mr Taylor submitted that no patient complained or came to

any harm because of the claims made, there was no financial loss or deception, fraud, or forgery. He submitted that, although the dishonesty in this case was serious, it was not so serious as to be considered irreparable.

157. Mr Taylor submitted that in order to remediate and remove the risk of repetition, Dr Arshad ended the venture some time ago. He submitted that the Tribunal has heard how it came to an end towards the end of 2022 (the company XXX Ltd was dissolved on 25 October 2022) and there has been no Instagram business account since then. Mr Taylor submitted that the period from the end of 2022 until the present has coincided with Dr Arshad finding her niche in Care of the Elderly medicine. He submitted that Dr Arshad's son was born in April 2023. She became pregnant in July 2022, again coinciding with the 4-month locum post in Liverpool in Gerontology & Care of the Elderly. He submitted that Dr Arshad has not looked back since the end of this wholly misguided venture.

158. Mr Taylor submitted that Dr Arshad describes how she has been working at the Poplars Community Unit for the Elderly since October 2022 to the present. She completed her CREST form in preparation for her specialty training application and started her preparation for the Multi-Specialty Recruitment Assessment exam. He submitted that Dr Arshad was hoping to take the exam this month but has now deferred it until September 2024 because of these proceedings. Mr Taylor submitted that Dr Arshad has provided the Tribunal with her appraisal certificate for 2021-2022. He submitted that her appraisal for 2022-2023 is ongoing and will be completed as soon as these proceedings have concluded.

159. Mr Taylor submitted, in relation to risk of repetition, that Dr Arshad wrote in her reflection statement:

'I also wanted to further reflect and learn from these events so [as] to ensure they are never repeated and as such, I have completed a range of training courses. These included courses on insight, probity and ethics, reflection and remediation. I also completed a course on how to ensure a similar mistake is not repeated in the future.'

160. Mr Taylor submitted that Dr Arshad continues to cover the topics of insight, probity, ethics, reflection, and remediation on a weekly basis in her sessions with her Clinical Supervisor, as part of her ongoing personal and career development. He submitted that this is confirmed by Professor B, who is a Consultant in Old Age Psychiatry, and Associate Medical Director for postgraduate medical education. In his testimonial dated 6 November 2023, he wrote:

'Dr Arshad and I have discussed the allegations in our supervision sessions. She has shown a genuine willingness to reflect and learn from the allegations and to avoid making similar mistakes in the future. To support this, she has undertaken additional training relating to probity and ethics, reflection and remediation as well as how to manage mistakes. We have discussed Dr Arshad's learning from the allegations. She now has more insight into the importance of good medical practice and of being accountable for her decisions and actions. She has also learned about the importance of being fully aware of her responsibilities as a doctor and the potential risks that might arise when these responsibilities are not adhered to. Dr Arshad recognises what has happened and she is committed to learning from these events to ensure that these are not repeated. She accepts that safe patient care should always be at the forefront of all her clinical considerations and decisions...She is committed to professional development. Dr Arshad is also committed to learning from the allegations.'

161. Mr Taylor referred the Tribunal to Dr Arshad's own words of reflection as contained in her statement.

162. Mr Taylor submitted that these proceedings have had a significant effect on Dr Arshad. He submitted that it has been almost three years since these four claims were posted in early February 2021 and Dr Arshad has come a long way since then, is now committed to working in the NHS, and has taken targeted, meaningful steps to bring about her remediation. Mr Taylor submitted that the Tribunal can be confident that there is a minimal and negligible risk of repetition.

163. Mr Taylor submitted that the Tribunal will have read all the positive testimonials provided on behalf of Dr Arshad from her work colleagues. He submitted that they illustrate that Dr Arshad is a highly valued member of the team, that she acts appropriately and professionally in all respects, and that she is excellent at her job. Mr Taylor submitted that these testimonials bolster the contention that Dr Arshad has taken appropriate and effective steps to remediate, such that there is minimal risk of repetition.

164. Mr Taylor submitted, in conclusion, that while Dr Arshad recognises that her actions amount to serious professional misconduct, and that a finding of impairment is necessary to uphold proper professional standards and public confidence in the profession, the Tribunal is asked to take into account at this stage Dr Arshad's contrition, the level of her understanding and insight, how she has moved on from her misguided venture, and the steps she has taken in the years since these events occurred to ensure that there will be no repetition.

The Relevant Legal Principles

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

166. In approaching the decision, the Tribunal was mindful of the two-stage process to be adopted: first whether the facts as found proved amount to misconduct, and then, whether Dr Arshad's fitness to practise is currently impaired by reason of that misconduct.

167. The Tribunal reminded itself of the case of *Roylance v GMC (Medical Act 1983) [1999] UKPC 16*, in which it was said that:

'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 practitioner in the particular circumstances.'

168. The Tribunal reminded itself that in determining whether the proven facts establish misconduct it should consider whether Dr Arshad has breached, any of the relevant provisions of Good Medical Practice, the extent of any such breach and the circumstances or context in which the breach occurred.

169. In considering whether Dr Arshad's conduct was sufficiently serious to amount to misconduct, the Tribunal had regard to the case of *Nandi v. General Medical Council [2004] EWHC 2317 (Admin)*, in which Mr Justice Collins emphasised in his judgment, the need to give the question of 'serious misconduct' proper weight, observing that it has been referred to as 'conduct which would be regarded as deplorable by fellow practitioners'.

170. The Tribunal further had regard to the case of *Howd v Bar Standards Board, [2017] EWHC 210 (Admin); [2017] 4 WLR 54* in which it was said that it is, a 'high threshold' and that to amount to serious misconduct the conduct in question must be 'reprehensible, morally culpable or disgraceful'.

171. In order to determine whether Dr Arshad's fitness to practise is impaired as of today, the Tribunal would take into account her conduct at the time of the events and any relevant factors since then, such as any expressions of remorse or insight, whether the matters are remediable, whether they have been remedied and any likelihood of repetition.

172. When considering the issue of insight and remediation the Tribunal must bear in mind the guidance in the line of authorities including *Nicholas-Pillai v GMC [2009] EWHC 1048 (Admin)*, *Towuanghantse v GMC [2021] EWHC 681* and *Sawati v General Medical Council [2022] EWHC 283 (Admin)*. Every accused person is entitled to put a robust defence, and maintenance of innocence at a Tribunal should not automatically result in a finding of failure of insight: it is of potential relevance, but its relevance should be properly considered in context. In particular, where a denied allegation involves an issue of dishonesty the Tribunal must consider whether the element of dishonest state of mind was a primary allegation and then the nature of the denial. It should also consider how far ‘lack of insight’ is evidenced by anything other than the rejected defence.

173. As regards the issue of dishonesty the Tribunal had reference to the case of *GMC v Nwachuka 2017 EWHC 2085 (Admin)* where it was confirmed that it is unusual for dishonesty not to result in impairment. The Tribunal was also directed to the case of *Nkomo v GMC 2019 EWHC 2625 (Admin)*, which states that dishonesty is generally difficult to remediate. The Tribunal was reminded however, that each case should be considered on its own individual facts and a finding of dishonesty does not automatically mean that a doctor’s fitness to practise must be impaired.

174. The Tribunal considered the overall risk to public protection and the impact of its findings on all three elements of the overarching objective. It also considered whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of current impairment were not made.

175. The Tribunal was assisted by the guidance provided by Dame Janet Smith in the Fifth Shipman Report, as adopted by the High Court in *CHRE v NMC and Paula Grant [2011] EWHC 297 Admin*. The Tribunal noted:

‘..the tribunal should consider whether the findings of fact in respect of the doctor. ... show that his fitness to practise is impaired in the sense that 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...*

d. has in the past acted dishonestly / or is liable in to act dishonestly in the future.'

176. Throughout its deliberations, the Tribunal has been mindful of its responsibility to uphold the overarching objective as set out in the Medical Act 1983 (as amended). That objective is the protection of the public and involves the pursuit of the following:

- a. to protect, promote and maintain the health, safety, and wellbeing of the public.
- b. to maintain public confidence in the profession.
- c. to promote and maintain proper professional standards and conduct for members of the profession.

The Tribunal's Determination on Impairment

177. The Tribunal considered whether Dr Arshad's fitness to practise is currently impaired by reason of her misconduct. In reaching its decision, the Tribunal reminded itself that it must consider whether Dr Arshad's fitness to practise is impaired today and must therefore look forward. The Tribunal also had regard to all three limbs of the overarching objective and its obligation to give sufficient weight to each limb.

Misconduct

178. The Tribunal first considered whether the facts found proved amounted to serious misconduct. It did so with reference to the relevant sections of GMP, which set out the standards that a doctor must continue to meet throughout their professional career.

179. The Tribunal had regard to its findings at the facts stage. It reminded itself that Dr Arshad had admitted advertising or allowing her services to be advertised in the administration of infusions and allowed the publication of the reference to her status as '*GMC certified Doctor*' to lend credence to the claims. Dr Arshad admitted these on the basis of not knowing what had been posted by her Media Content Creator Manager, Ms N. The Tribunal further found it proved that Dr Arshad had posted and/or allowed to be posted, four advertising posts which she knew to be untrue and were dishonest.

180. The Tribunal had regard to the following paragraphs of GMP which it considered to be engaged by this Allegation:

1. *Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date,*

establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.

65. *You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.*
68. *You must be honest and trustworthy in all your communication with patients and colleagues. This means you must make clear the limits of your knowledge and make reasonable checks to make sure any information you give is accurate.*
70. *When advertising your services, you must make sure the information you publish is factual and can be checked, and does not exploit patients' vulnerability or lack of medical knowledge.*

Use of the term Certified Doctor

181. The Tribunal determined that reference to 'certified GMC doctor' in itself, did not amount to misconduct. The Tribunal considered that it would be reasonable to assume that 'certified' is being used in the same way as 'registered'. It is a fact that Dr Arshad was, at the time, a registered doctor. Therefore, it found that the use of the term 'certified' per se did not raise concerns. However, the Tribunal accepted that reference to a GMC doctor would lend credence to the claim. It did not consider this conduct as disgraceful, reprehensible or morally culpable. Rather it was the dishonesty within those claims that was relevant to the Tribunal's determination.

Posts that Dr Arshad was not aware of

182. The Tribunal found that, on the basis of the facts found proved, Ms N was properly contracted to post media content and that Dr Arshad was not aware of these posts. However, in allowing her services to be advertised, which Dr Arshad did by her own admission, Dr Arshad failed to ensure that the content was factual and ought to have made reasonable checks to ensure that information given was accurate, particularly as this was during a time when the public was in fear of a heightened level of Covid pandemic. The Tribunal concluded that ultimately it was Dr Arshad's responsibility to check the contents of the posts and having recently qualified, would have been aware of the need to act in accordance with GMP. In allowing such advertisements to be posted without her knowledge, Dr Arshad demonstrated disregard of her obligations as a doctor. It therefore found paragraphs, 65, 68 and 70 of GMP to be relevant to these particular allegations. However,

the Tribunal deemed this to fall just short of serious misconduct. Rather, it determined that Dr Arshad was naive and negligent in placing too much trust in Ms N and allowing these posts to be published and subsequently not checking their contents to ensure these were in compliance with the marketing guidance issued by Intravita.

Posts that Dr Arshad was aware of that have subsequently found to be dishonest.

No. 1

183. The Tribunal was mindful of its findings at the facts stage in relation to Dr Arshad's involvement in the video created by her. It reminded itself of the material provided by Intravita which states, 'no medical claims should be made or medical conditions treated'. The Tribunal found that this amounted to dishonesty.

184. The Tribunal had regard to the expert report of Professor A:

"The information being provided in these exhibits is misleading and at points simply incorrect. It also makes claims for efficacy and onset kinetics of her 'Drips' that are unsubstantiated and highly misleading. In doing so, her patients cannot make informed decisions about whether to receive the 'Drips' or not. This behaviour falls seriously below the level of care expected from a GMC registered doctor offering this type of service."

185. It was notable that Professor A's expert opinion focused more on the absorption of the IV infusion and did not address reference to 'medical conditions'. However, the Tribunal considered this more serious on the basis that the doctor was expressly told, in the Intravita materials, not to make such claims, but nevertheless did so. This clearly misrepresented the effectiveness of the IV Infusions. The Tribunal was also mindful that Dr Arshad's intent in posting such inaccurate and misleading claims was for her own financial benefit.

No. 12

186. The Tribunal found that this was something that Dr Arshad herself had created and sent to Ms N to be posted. The post expressly states that vitamin C helps protect from coronavirus and the Tribunal found that, as a doctor, she knew to be untrue and was dishonest. This was supported by the expert report of Professor A:

"Dr Arshad's posts suggesting that vitamin C is an effective antiviral agent against influenza and Covid19 is unquestionably misleading and exploitative in the context of the

recent Covid19 Pandemic. It is not evidence-based and designed to exploit patients fears about developing Covid19 related disease.”

No. 13

187. The post made unsubstantiated claims about the IV Drip assisting weight loss, specifically weight loss associated with ketosis and was found to have been posted either by Ms N with Dr Arshad’s knowledge or by Dr Arshad herself. This was supported by the expert report of Professor A:

‘The various claims that the IV infusions offered can reduce anxiety, enhance athletic performance, produce weight loss ... is again misleading if not simply incorrect. Giving this information falls seriously below that expected from a GMC registered doctor offering this type of service and advice.’

No. 14

188. The Tribunal considered that this was a further post alluding to containing the spread of Covid-19. It bore in mind that this was posted at a time of heightened anxiety amongst the public. The Tribunal noted Professor A’s report in relation to this allegation as stated above.

Consideration of GMP

189. In considering the four dishonest claims, the Tribunal had regard to the following paragraphs of GMP which it considered to be engaged by this subsection of the Allegation; paragraphs 1, 65, 68 and 70 as set out above by the GMC.

190. The Tribunal considered that paragraph 1 of GMP to be engaged. In publishing incorrect material in direct contradiction of the guidance provided by Intravita, Dr Arshad acted dishonestly and without integrity. The Tribunal concluded that there would have been a financial motivation underpinning her disregard for GMP and this continued until May 2021 when the GMC contacted Dr Arshad.

191. The Tribunal determined that Dr Arshad’s dishonest posts were in breach of paragraph 65 of GMP in they undermined patients’ trust and the trust of the public in the profession. The Tribunal noted that in allowing the contents within the post to be published, Dr Arshad’s conduct did not justify patients’ trust in her or the public’s trust in the profession. It took the view that these posts were not just inaccurate but also dishonest.

192. The Tribunal considered paragraphs 68 and 70 of GMP to be engaged. It found that by creating and allowing such posts to be seen by the public, Dr Arshad was knowingly giving out false information and creating a false narrative about links between IV infusions and medical conditions which included Covid-19 and related illnesses. Furthermore, there was an implication that the drip would increase immunity. The Tribunal determined that this information, which was untrue, was posted to entice members of the public to obtain the intravenous infusions so that Dr Arshad could financially benefit from this.

193. The Tribunal also accepted that this dishonesty did not represent a momentary lapse of judgement, but Dr Arshad intentionally marketed a product to the general public at a time of heightened anxiety, using claims that she knew to be untrue. The Tribunal considered that over a period of time following the GMC complaint, the actions taken by Dr Arshad to remove the false claims were insufficient as she did not fully ensure that all of the posts were removed, and such dishonest posts could have continued to provide her with business.

194. The Tribunal considered that Dr Arshad made further bold assertions that the IV infusion '*would put the body into ketosis, a very effective aid to weight loss*'. This claim is not substantiated. The Tribunal noted that this could be attractive to a significant portion of the population which could ultimately lead to an increase in business for Dr Arshad.

195. The Tribunal took the view that paragraph 70 of GMP is clearly engaged. Dr Arshad had posted the video in No.1 referencing all medical conditions being 'covered' thereby unrealistically raising the expectation of the public in relation to benefits of intravenous infusion. In so doing, this exploited patients' vulnerability and/or lack of medical knowledge.

196. The Tribunal was particularly mindful of the context in which the posts were made, whereby the majority of the population were concerned about the impact of Covid-19 on themselves and their families. It considered that Dr Arshad's advertising of her products in this context exploited patients' vulnerability or lack of medical knowledge. The Tribunal noted Professor A's opinion in relation to this Allegation as in paragraph 54 above and that this fell seriously below the expected standard. The Tribunal therefore concluded that these potentially exploitative practices amounted to serious misconduct.

197. The Tribunal was satisfied by the evidence before it that Dr Arshad's dishonest conduct fell far short of the conduct expected of a registered doctor and was sufficient to bring the medical profession into disrepute. The Tribunal also determined that Dr Arshad's actions would be considered deplorable by fellow practitioners and her actions were morally culpable, reprehensible, and disgraceful.

198. Having regard to the circumstances of the case, the Tribunal was satisfied that that Dr Arshad's actions amounted to serious misconduct in relation to No.1, No.12, No.13 and No.14 of Schedule 2 of the Allegation.

Impairment

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

200. In considering the test in Grant, the Tribunal accepted that there were no clinical concerns in respect of Dr Arshad's practice. However, it considered that limbs (b) (c) and (d) of the test were engaged. In particular, the Tribunal determined that Dr Arshad's dishonest conduct brought the medical profession into disrepute, she had breached a fundamental tenet of the profession to act with honesty and integrity and she had acted dishonestly.

201. In determining whether a finding of current impairment of fitness to practise is necessary, the Tribunal considered whether the misconduct could be remedied while bearing in mind that matters of dishonesty are difficult to remediate. It considered the evidence in respect of Dr Arshad's insight, remediation, likelihood of repetition and balanced that against the three limbs of the statutory overarching objective.

202. The Tribunal considered the further material that had been put before them by Dr Arshad, in the impairment bundle. The Tribunal was further assisted by Dr Arshad's statement which included her reflection.

Insight

203. The Tribunal noted that Dr Arshad had apologised for her actions, both in her written statement, oral evidence, and her statement. Dr Arshad also took action immediately after the complaint was first made in May 2021 by attempting to remove the Instagram posts which contained misleading and inaccurate information. Dr Arshad made admissions at the outset of the hearing to the majority of these allegations. She accepted the findings of Professor A, the expert, thereby dispensing with the need for him to attend the hearing. No live witnesses were required to attend the hearing for the purposes of cross-examination as Dr Arshad did not disagree with their evidence. Dr Arshad did deny allegations of dishonesty, as was her right, but now accepts the Tribunal's findings.

204. The Tribunal noted the testimonial of Professor B, Dr Arshad’s Clinical Supervisor and Associate Medical Director for postgraduate medical education.

205. Dr Arshad stated in her evidence that that she regularly discusses her insight with Professor B as outlined above in Paragraph 28.

206. The Tribunal was assured from Dr Arshad’s evidence, both written and oral, that her insight was sufficiently developed in terms of the impact on her and her career as a doctor. It considered this to be a safeguard against repetition.

Remediability

207. The Tribunal has been provided with no evidence that any patients were directly harmed as a result of, or made any complaints, about the posts. The Tribunal also accepted that this is an issue of financial gain, but not financial fraud and the GMC do not bring these proceedings on the basis of any fraudulent act by Dr Arshad.

208. The Tribunal took the view that Dr Arshad’s conduct is remediable due to the ongoing nature of her reflective meetings with Professor B, her clinical supervisor, who is fully aware of the facts of this case. Dr Arshad’s active engagement, which she has willingly embraced, therefore shows that there is potential for tangible remediation.

Remediation and Risk of Repetition

209. The Tribunal had regard to the fact that Dr Arshad had taken steps to remediate her conduct. The Tribunal had regard to the CPD courses completed by Dr Arshad on 13 December 2022 under the overall heading of Probity and Ethics. These were: Module on Remediation; Module on Reflection; Module on Insight; and How to ensure a similar mistake of Misconduct will not be repeated in the Future. The Tribunal acknowledged that these areas were unlikely to have been covered in any depth given that they were short modules which were completed on one day. However, it accepted that they did provide a foundation on which Dr Arshad could build her reflection and remediation during her supervision sessions with Professor B.

210. The Tribunal considered the testimonials provided on behalf of Dr Arshad and was satisfied that there have been no subsequent issues with probity.

211. The Tribunal considered that it had been almost three years since the inception of Dr Arshad’s business. Although the Tribunal noted that this was not a significant period of time,

Dr Arshad had used this period constructively to reflect and remediate, in particular with Professor B since November 2022 and that this process is ongoing.

212. The Tribunal bore in mind the submissions on behalf of Dr Arshad that she hopes to take the Multi-Specialty Recruitment Assessment exam in September 2024. Dr Arshad no longer wishes to practice in aesthetics and now seems to be fully committed to pursuing a specialism in Medicine for the Elderly. She will also continue to be fully supervised as a Junior Doctor, in the first instance by Professor B. This led the Tribunal to conclude that the risk of repetition is low.

Reflection

213. The Tribunal considered Dr Arshad's witness statement in which she stated:

'Overall, this investigation has taught me the importance of good medical practice and the importance of taking accountability and responsibility for my career as a doctor. It has taught me to be more mindful of my surroundings and to keep a closer eye on matters that could potentially impact and cause unnecessary risk to my career.

As a young doctor, these lessons will be crucial for my career ahead. It is an unfortunate situation that I am in, but it is important that I recognise what has happened, my errors, and how I can learn from this and prevent any repetition in the future.

I sincerely apologise for everything that has occurred which has resulted in this investigation. I will now continue to focus on my NHS career and look forward to my speciality training. The stress this has caused to me has been immense and it has given me perspective and reminded me of the reasons I wanted to pursue a career in medicine in the first place.'

214. The Tribunal acknowledged that the reflections covered both Dr Arshad's lack of knowledge and familiarity with GMP as well as her dishonest actions and what she had subsequently learnt.

215. The Tribunal also noted that Dr Arshad's reflections included consideration of the impact of her actions on the reputation of the profession and public confidence in it. It concluded that Dr Arshad had been consistent about ownership of wrongdoing, save for the dishonesty elements of the Allegation. She accepted that she should have exercised more

care and attention to the detail and her oversight of her own business when offering such invasive treatments to the public.

216. The Tribunal was mindful of the testimonial of Professor B as cited above. It was assured by this that Dr Arshad is regularly engaging in one-to-one meetings which included reflection.

217. The Tribunal concluded, notwithstanding the level of remediation and reflection that Dr Arshad has shown, dishonesty in itself was difficult to remediate. The Tribunal reminded itself that whilst a finding of impairment does not necessarily follow dishonesty, it would nevertheless be an unusual case where dishonesty was not found to impair a registrant's fitness to practise. The Tribunal was also mindful of its findings that Dr Arshad's actions brought the medical profession into disrepute, breached a fundamental tenet of the profession, and represented a significant departure of the standards of doctors, set out in GMP.

218. In considering whether Dr Arshad's fitness to practise is currently impaired, the Tribunal balanced its assessment of her developing insight, her attempts at remediation and the risk of repetition against each limb of the statutory overarching objective, namely:

- 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.

219. The Tribunal was satisfied that a member of the public, knowing the facts of this case would be concerned to learn of a doctor acting in this way. The Tribunal was also satisfied that public confidence in the profession, the regulator and the disciplinary process would be undermined if a finding of impairment was not made. Further, in light of its findings of serious misconduct, the Tribunal was satisfied that the need to promote and maintain proper professional standards and conduct for members of the profession would be undermined if a finding of impairment was not made.

220. The Tribunal has therefore determined that Dr Arshad's fitness to practise is impaired by reason of misconduct.

Determination on Sanction - 17/01/2024

221. Having determined that Dr Arshad’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.

The Evidence

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

Submissions

On behalf of the GMC

223. On behalf of the GMC, Ms Fairley submitted that the appropriate sanction was a matter for the Tribunal. She referred the Tribunal to the Sanctions Guidance (November 2020 version) (SG), and the Overarching Objective as set out in the Medical Act 1983. Ms Fairley referred the Tribunal to paragraphs 14 and 17 of SG and stated that the reputation of the medical profession was more important than the reputation of the practitioner.

224. Ms Fairley submitted that there were mitigating features in this case which included Dr Arshad accepting responsibility for her actions. Ms Fairley acknowledged that Dr Arshad was at an early stage of her career. She referred the Tribunal to paragraphs 27 and 31 relevant to remediation and stated that Dr Arshad had commenced remediation. Ms Fairley also referred to paragraphs 45 – 47 of the SG which deal with insight.

225. In relation to aggravating features in this case, Ms Fairley submitted that Dr Arshad’s posts could have potentially impacted on vulnerable patients, particularly elderly patients. Furthermore, these posts were not removed at the earliest opportunity. Dr Arshad’s actions could have been driven by a financial motivation and so disregarded the standards set out in GMP.

226. Ms Fairley went through the relevant paragraphs of the SG, considering the possible outcomes, starting with the least restrictive first. She drew the Tribunal’s attention to paragraphs 68 and 87 of the SG stating that taking no action would not be appropriate in this case. She further stated that conditions would not be appropriate given Dr Arshad’s actions had been found to be dishonest. She added that it was difficult to identify any conditions, and in any event, conditions would not protect the public interest.

227. Ms Fairley submitted that the appropriate sanction was one of suspension. She referred the Tribunal to paragraphs 91 and 92 of the SG and stated that Dr Arshad's behaviour was unbecoming of a doctor. She said that it was appropriate to send a signal to the medical profession and the public as to the standards of behaviour expected of doctors. Ms Fairley submitted that Dr Arshad's actions were not incompatible with her continued registration on the medical register, although she acknowledged that the Tribunal had found deliberate breaches of GMP, referring the Tribunal to paragraph 59 of its determination on impairment. Further, she added, the Tribunal noted that dishonesty found was not a single incident or a momentary lapse. Further, the posts were made during a period of heightened anxiety and were exploitative.

228. Ms Fairley submitted that Dr Arshad's conduct was so serious that action must be taken to ensure a clear signal was sent. She referred the Tribunal to paragraph 93 of the SG which sets out that where there was an acknowledgement of fault, and the conduct was unlikely to be repeated, as in this case, suspension might be the appropriate sanction. Referring to paragraph 97 of the SG, she submitted that sub-paragraphs 97(a), (e), (f) and (g) were engaged. Ms Fairley also drew the Tribunal's attention to paragraphs 120 – 123 of the SG in relation to dishonesty. She submitted that the second and third limbs of the overarching objective were engaged in this case and suspension was the adequate and proportionate sanction to send out a clear message, to uphold the standards of behaviour expected, and to protect the public interest.

229. Ms Fairley invited the Tribunal to impose a period of suspension upon Dr Arshad's registration.

On behalf of Dr Arshad

230. Mr Taylor submitted that he took no issue with the submissions made by Ms Fairley on behalf of the GMC, accepting that the appropriate sanction needed to be considered in ascending order and taking account of proportionality. He referred the Tribunal to the case of *Pool v General Medical Council [2014] EWHC 3791 (Admin)*, in which it was stated that, '*proportionality requires that there is a reasonable relationship between the penalty imposed and the misconduct giving rise to the impairment.*' He submitted that the Tribunal should impose the minimum sanction necessary to protect the second and third limbs of the overarching objective, taking account of the progress made by Dr Arshad. He took the Tribunal to paragraph 20 of the SG which he said confirmed that the Tribunal should start with the least restrictive sanction weighing the interests of the public against the doctor, adding however, that the impact any sanction would have on the doctor's career.

231. Further referring to paragraph 20 of the SG, Mr Taylor submitted that even a short period suspension could have a detrimental effect on a doctor's career in terms of their training. He stated that Dr Arshad was a young doctor, and the Tribunal should be mindful of the impact a period of suspension, even a short period, could have on her career, given that she wishes to apply for specialty training in May or June 2024. He said that Dr Arshad would not be able to apply for the training if her registration were suspended, adding that it would be disproportionate to delay her training for a significant period. He added that the Tribunal should bear in mind the need for doctors in the specialty field which Dr Arshad wished to pursue, and that it would not be in the public interest to delay this.

232. Mr Taylor acknowledged the GMC submissions in relation to insight and remediation and, highlighted that Dr Arshad had made significant admissions to the primary allegations in this case at the outset. He said that the period of misconduct was very short, but accepted it was not an isolated incident. He said that it was a wholly misguided venture, over a very short period, which occurred some three years ago. Mr Taylor told the Tribunal that Dr Arshad applied for NHS posts as soon as she qualified but was told she was overqualified, even to embark on the foundation training programme. He stated that if Dr Arshad had been fortunate enough to secure a junior post, these events may have never occurred. Mr Taylor said that Dr Arshad was at an early stage of her career when she posted the claims.

233. Mr Taylor stated that the other mitigating features to note in this case were that Dr Arshad had no previous adverse history with the GMC, either before or since these events. He said it was totally out of character for Dr Arshad to behave in this way. He added that the Tribunal had seen and heard from Dr Arshad during these proceedings and hoped that it accepted she was not an intrinsically dishonest person. He said she was a million miles away from that. He added that Dr Arshad was a young doctor, only twenty-six years of age, at the time of these events and trying to find work in the NHS, and that her actions could be said to be 'naïve and foolish' due to her age and lack of experience.

234. Mr Taylor referred the Tribunal to paragraphs 27 and 28 of the SG which deal with the stage of a practitioner's career and level of experience. He submitted that this case fell fairly and squarely within these paragraphs. Mr Taylor then referred to paragraph 29 of the SG stating that the Tribunal was entitled to consider, as a mitigating feature, the doctor's medical career in the UK and evidence that the doctor had gained insight and reflected on how things should be done differently.

235. Mr Taylor submitted that further mitigating features in this case were that the Tribunal had made findings of facts and on impairment. He said that the Tribunal's findings, and the doctor coming before this Tribunal, her humility and the impact on her respect, and

the whole process had had a significant effect on Dr Arshad. He said that the Tribunal's findings themselves could be taken into account when considering sanction. He said that the public confidence in the profession had already been promoted and maintained by Dr Arshad going through this process and the findings of the Tribunal against Dr Arshad being made available in the public domain. Mr Taylor went on to say that this would have a deterrent effect and send out a message as to the importance of upholding and maintaining the standards expected of doctors.

236. Mr Taylor stated that the Tribunal should take into account that no patients came to any harm or complained, nor suffered any financial loss or were victims of financial fraud and referred the Tribunal to its impairment determination at paragraph 75. He said that this therefore could be regarded as being at the end of what is a very broad spectrum of dishonesty.

237. Mr Taylor submitted that, in relation to the posts still appearing on Instagram in May 2021, Dr Arshad was not aware that they were still there and so she could not have taken steps to remove them. He reminded the Tribunal, as it had determined at paragraph 59 of its facts determination, that it has accepted Dr Arshad's evidence, namely that she carried out a structured assessment when consulting patients and looked out for conditions such as epilepsy and heart failure. He submitted that this demonstrated that Dr Arshad had put patient safety first.

238. In relation to remediation, Mr Taylor referred the Tribunal to paragraph 31 of the SG, and submitted that Dr Arshad had remediated to the extent she could. He said that she had brought the venture to an end and focused on her full-time career in the NHS. She had now taken on full time work and was working with her supervisor, Professor B, regularly focusing on insight, remediation and reflection. He submitted that if she continues to work, she would continue to have these discussions. Mr Taylor referred to paragraph 34 of the SG and stated that the Tribunal had before it numerous glowing testimonials received from Dr Arshad's clinical colleagues, all of whom attested to her good clinical work, stated that she was a value member of the team, and that they needed her. He said that doctors were needed in the field of medicine that Dr Arshad worked in. Mr Taylor said that Dr Arshad was a dedicated doctor XXX. He said that the reality was that this was young doctor who had moved on with her life sometime ago and she was committed to working for the NHS, adding that she was the main breadwinner.

239. In relation to insight, Mr Taylor submitted that it was crucial that the Tribunal did not fall into the trap of equating the maintenance of innocence with a lack of insight. He said that denial of misconduct was not a reason to increase the sanction as was stated in *Matala v*

General Medical Council [2017] EWHC 2923 (Admin). He said that the defence of honesty may be more fairly relevant to an overall assessment of conduct and sanction where dishonesty was the primary allegation, such as deceit, fraud, forgery or similar, compared to where dishonesty was the secondary allegation. He went on to say that before the Tribunal could make a decision on rejected defence, it should consider four things as was mentioned in the case of *Dr Sawati v General Medical Council [2022] EWHC 283 (Admin)*:

- “(i) how far state of mind or dishonesty was a primary rather than second-order allegation to begin with (noting the dangers of charging traps) – or not an allegation at all,
- (ii) what if anything the doctor was positively denying other than their own dishonesty or state of knowledge;
- (iii) how far 'lack of insight' is evidenced by anything other than the rejected defence and
- (iv) the nature and quality of the defence, identifying clearly any respect in which it was itself a deception, a lie or a counter-allegation of others' dishonesty.”

240. Mr Taylor submitted that the allegations of dishonesty in this case were secondary rather than primary. He said that Dr Arshad had demonstrated considerable evidence of insight and had repeatedly expressed remorse and apologised for her actions.

241. Mr Taylor accepted there were no exceptional circumstances in this case for no action to be taken. He also acknowledged that conditions were usually designed for cases involving health, language and performance cases. However, he submitted that there was no hard and fast rule to say that conditions could not be imposed in a misconduct case. He referred the Tribunal to paragraphs 54 and 84 of the SG which suggested conditions might be appropriate in misconduct cases. He said the following factors indicated that conditions may be appropriate:

- There was no evidence that remediation was likely to be unsuccessful;
- The doctor was willing to respond positively to retraining.

242. Mr Taylor said that whilst unusual, conditions could be imposed, specifically prohibiting Dr Arshad from working in a non-NHS based setting.

243. Mr Taylor added that there was a condition in the conditions bank to accommodate this. He said that conditions would allow Dr Arshad to continue to work and thereafter undertake her training, which she would apply for in May or June 2024, if she were not suspended. Further, he submitted that conditions would ensure that both public confidence

in the profession as well as proper professional standards and conduct for the members of the profession were promoted and maintained in fulfilment of the overarching objective. Mr Taylor submitted that a reasonable and well-informed member of the public would not be alarmed to learn that Dr Arshad been allowed to continue to practise.

244. Mr Taylor submitted that if the Tribunal did not accept his submissions in favour of conditions, and was minded to impose a period of suspension, it should take into account the degree of Dr Arshad's insight into her actions and the steps she had taken to remediate when determining the length of the suspension. He drew the Tribunal's attention to paragraphs 74 – 76 and paragraphs 79 – 80 of its determination on impairment. Mr Taylor also submitted that the Tribunal should take into account the impact that the length of suspension would have on Dr Arshad's career. Mr Taylor accepted that paragraphs 97 (a),(e),(f) and (g) applied in this case.

245. Mr Taylor submitted that the public interest and the maintaining of standards would adequately be served by a short period of suspension, adding that a period such as one month 'should do the trick', as well as send out a message to this doctor as to the standards and behaviour expected of doctors. He reminded the Tribunal of its finding that there was low risk of repetition. He stated that Dr Arshad's fitness to practise was not incompatible with continued registration. He invited the Tribunal at the first instance to consider imposing conditions upon Dr Arshad's registration. If the Tribunal was not so minded, then a short period of suspension, of around one month ought to be imposed.

The Tribunal's Determination on Sanction

246. The decision as to the appropriate sanction, if any, to impose is a matter for the Tribunal alone, exercising its own judgement. In reaching its decision, the Tribunal has taken GMP and the SG into account and has, at all times, borne in mind the overarching objective.

247. The Tribunal reminded itself that the main reason for imposing any sanction is to protect the public, and that sanctions are not imposed to punish doctors, even though they may have a punitive effect. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Arshad's interests with the public interest.

248. The Tribunal has taken the above factors into account in considering the appropriate sanction under the SG. It considered each sanction in ascending order of severity, starting with the least restrictive.

249. Before considering what, if any, action, to take in respect of Dr Arshad's registration, the Tribunal had regard to any aggravating and mitigating factors in this case.

Aggravating Factors

250. Dr Arshad's misconduct amounted to four separate dishonest claims over a period of time and therefore it was not an isolated event.

251. Notwithstanding the checks she had in place, Dr Arshad did not demonstrate a full appreciation of the potential harm that could be caused by the intravenous infusions particularly during the Covid-19 pandemic.

252. The welfare of the public was secondary to the potential income that Dr Arshad could have made. She therefore put her own interest and welfare before others.

253. Dr Arshad failed to carry out rigorous checks to ensure the dishonest claims had been removed.

Mitigating Factors

254. The Tribunal noted that Dr Arshad accepted responsibility for the majority of her actions at the outset of the GMC investigation process and the hearing.

255. The Tribunal recognised that Dr Arshad was at a very early stage of her career when this misconduct took place and had not worked as a doctor before, save for in a voluntary capacity.

256. Dr Arshad now has a better understanding of the relevance and importance of GMP in her personal and professional life.

257. Dr Arshad has no previous adverse fitness to practise history.

258. Dr Arshad has shown a good level of remorse and insight in her statement and has made efforts to remediate her wrongdoing through the CPD modules and her regular meetings with Professor B, her clinical supervisor, which are ongoing.

259. Dr Arshad was fully cooperative with the investigation at an early stage and engaged throughout. She also took measures prior to the Allegation to remediate by removing some

of the relevant posts. Dr Arshad has expressed her sincere apologies and regret for her actions.

260. The Tribunal considered the positive testimonials about Dr Arshad which spoke to her being a good clinician and valued member of the team.

261. There are no probity concerns in respect of Dr Arshad's clinical work, or other aspects of her personal life.

262. The Tribunal noted that almost three years had passed since Dr Arshad had first posted those claims that the Tribunal found to be dishonest.

263. Dr Arshad accepted the expert opinion on Professor A and the findings of the Tribunal, and no live witnesses needed to attend the hearing.

No action

264. The Tribunal first considered whether to conclude the case by taking no action. Taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances. The Tribunal determined that no exceptional circumstances had been advanced that would make such an outcome appropriate. Taking no action would not be sufficient, proportionate, or in the public interest to meet the overarching objective.

Conditions

265. The Tribunal next considered whether to impose conditions on Dr Arshad's registration. It bore in mind that any conditions imposed would need to be appropriate, proportionate, workable, and measurable.

266. In the light of its findings, the Tribunal determined that it would not be possible to formulate a set of appropriate or workable conditions which could adequately address Dr Arshad's misconduct and dishonesty. In any event, the Tribunal concluded that a period of conditional registration would not be a sufficient, appropriate, or proportionate sanction to satisfy the public interest or uphold or maintain public confidence in the profession.

Suspension

267. The Tribunal went on to consider whether it would be appropriate and proportionate to suspend Dr Arshad's registration.

268. The Tribunal was mindful that Dr Arshad's actions breached a number of paragraphs of GMP, particularly paragraph 70 which it considered to be serious. Paragraph 70 states:

70 'When advertising your services, you must make sure the information you publish is factual and can be checked, and does not exploit patients' vulnerability or lack of medical knowledge.'

269. The Tribunal considered the SG in relation to suspension including paragraphs 91, 92, 93 and 97(e), (f) and (g) which state:

'91. Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.

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 (i.e. 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...

97 Some or all of the following factors being present...would indicate suspension may be appropriate.

...

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.'

270. The Tribunal recognised that a sanction of suspension does have a deterrent effect and can be used to send a signal to Dr Arshad, the profession, and the public about what is regarded as behaviour unbecoming a registered doctor. It also acknowledged that suspension is an appropriate response to misconduct which is sufficiently serious that action is required in order to maintain public confidence in the profession, but which falls short of being fundamentally incompatible with continued registration.

271. The Tribunal recognised that Dr Arshad has had no previous findings made against her. However, the Tribunal could only attribute limited weight to this fact given that she had registered as a doctor very recently.

272. The Tribunal was satisfied that Dr Arshad has acknowledged her faults and that this behaviour is unlikely to be repeated.

273. The Tribunal saw no evidence to suggest that remediation would not be successful in view of the steps that Dr Arshad has already taken to rectify her actions. Furthermore, she has shown commitment to continue with this process in the future.

274. The Tribunal also found that there was no repetition of similar behaviour since the allegations were first communicated to her. The Tribunal was satisfied that Dr Arshad has demonstrated sufficient insight and does not pose a significant risk of repeating this behaviour.

275. The Tribunal accepted that Dr Arshad now recognises that she should have behaved differently. However, she has not yet shown sufficient empathy or understanding of the potential harm that could have been caused to the public or the profession. The Tribunal noted that Dr Arshad did not mention the potential impact that false claims would have on the public.

276. The Tribunal accepted that Dr Arshad had a good degree of insight. However, it considered that this insight mainly related to the impact that her misconduct had on herself and her career rather than the potential harm she could have caused to the public and the profession. Following the Tribunal's findings Dr Arshad has not had sufficient time to show insight and remediate in respect of dishonesty. Therefore, although it accepted that there might be insight, this was not yet fully developed.

277. The Tribunal did not place a great deal of weight on the amount of time that had passed as some of the dishonest posts were still on the Dr Arshad's Instagram page when viewed by Mr K on 9 December 2021.

278. The Tribunal accepted that no patient had come to any harm or suffered any financial fraud but the risk of potential harm to the public continued as long as the dishonest claims remained published on the Instagram page. Members of the public may have opted for this treatment as opposed to seeking appropriate medical attention.

279. The Tribunal considered that Dr Arshad's misconduct amounted to dishonesty which was a serious breach of a fundamental tenet of the medical profession and of GMP. However, given Dr Arshad's expressions of remorse, the Tribunal determined that her dishonesty was remediable. It was satisfied that she is not an inherently dishonest person and that she is genuine in her expressed intention to remediate her actions and develop both as a doctor and an individual. The Tribunal found that she had already begun the journey to develop her level of insight and was anxious to continue on that journey.

280. The Tribunal was satisfied that on Dr Arshad's current career pathway, she would be unlikely to return to a private business involving patient care in the future. This would reduce the risk of repetition.

281. In order to satisfy itself that suspension was an appropriate sanction to impose, the Tribunal then considered the sanction of erasure. The Tribunal was mindful that some of the features in the SG relevant to erasure were present in this case notably the serious departure from GMP and Dr Arshad's disregard for those principles. However, having concluded that Dr Arshad's misconduct was not fundamentally incompatible with continued registration for the reasons set out above and Dr Arshad had demonstrated her willingness to engage in remediation, the Tribunal was persuaded that a period of suspension would meet the need to maintain public confidence in the profession; and to promote and maintain proper professional standards and conduct for members of the profession. It considered that a period of suspension would balance Dr Arshad's interests with the need to send a clear message that her behaviour was wholly unacceptable for a member of the medical profession.

282. In determining the length of suspension, the Tribunal took into account Dr Arshad's current reflections and level of insight and her ongoing remediation with Professor B. It bore in mind its findings that Dr Arshad had made claims about intravenous infusions helping with Covid-19 and had made reference to medical conditions. These were particularly serious. Nevertheless, it accepted that there was a low risk of repetition in view of the evidence it received. It was mindful of the principle of proportionality and the impact that suspension would have on Dr Arshad. The Tribunal acknowledged that Dr Arshad was at the beginning of her career and therefore the length of suspension would have a great impact. It also

acknowledged that a period of suspension may interrupt Dr Arshad’s ongoing remediation with Professor B. However, it concluded that during a period of suspension Dr Arshad could reflect on her actions and remediate in other ways.

283. The Tribunal therefore determined that Dr Arshad’s registration should be suspended for a period of three months. The Tribunal was satisfied that a suspension of Dr Arshad’s registration for this period will send a clear message to Dr Arshad, the profession, and the wider public that dishonesty constituted behaviour unbecoming a registered medical practitioner and will be taken seriously. It will also give Dr Arshad the opportunity to fully develop her insight into her misconduct and remediate her failings as well as giving her time to complete any professional development needed in order to ensure that her medical knowledge is up to date on her return to unrestricted practice.

284. The Tribunal considered paragraphs 164 to 166 of the SG as to whether a review hearing was necessary. It determined not to direct a review of Dr Arshad’s case. This was because the Tribunal was satisfied that Dr Arshad recognises the gravity of the offence, members of the public were not actually harmed as a result of the posts and Dr Arshad would be returning to supervised practice in view of where she is in her career. The Tribunal was satisfied that the risk of repetition was low. Furthermore, the primary purpose of the suspension was to send a signal to the public in relation to her dishonesty and 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. Further, it did not consider a review would be necessary to ensure that her skills were maintained as the period of suspension was short.

Determination on Immediate Order - 17/01/2024

285. Having determined to suspend Dr Arshad’s registration, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether her registration should be subject to an immediate order.

Submissions

286. On behalf of the GMC, Ms Fairley submitted that an immediate order was not necessary for the protection of the public nor was it in the public interest in this case. As such, she submitted that the threshold for an immediate order was not met.

287. Ms Fairley referred the Tribunal to paragraphs 172,173 and 174 of the SG. These provide:

‘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. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.

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.

174. Doctors and their representatives sometimes argue that no immediate order should be made as the doctor needs time to make arrangements for the care of their patients before the substantive order for suspension or erasure takes effect.’

288. On behalf of Dr Arshad, Mr Taylor submitted that immediate orders are necessary if the practitioner poses a risk to patients or if it would be in the public interest. He submitted that these do not apply in this case. He further submitted that as an immediate order of suspension would extend the overall suspension period it was not in Dr Arshad’s best interests. As such, an immediate order was not necessary.

289. Mr Taylor asked that the Tribunal revoke the interim order of conditions currently in place.

The Tribunal’s Determination

290. The Tribunal noted that parties were in agreement that an immediate order was not necessary to protect members of the public nor was it necessary in the best interests of Dr Arshad. It considered that the public interest was met in this case by the substantive sanction of suspension.

291. The Tribunal therefore determined not to impose an immediate order.

292. This means that Dr Arshad 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 Arshad does lodge an appeal she will remain free to practise unrestricted until the outcome of any appeal is known.

293. The interim order of conditions is hereby revoked.

294. That concludes the case.

SCHEDULE 1

XXX

SCHEDULE 2

No.	Account	Statement
1.	– Instagram (video) posted to account named in Schedule 1	“...we cover all medical conditions...we can tailor make the IV drips to help with any medical conditions that you guys are suffering from...absorption is 90% so you are guaranteed to see results within 2 to 3 days...how IV drips are different to medication or intra-muscular tablets is that when we take a tablet that’s administered by your GP or...”
2.	Instagram post to account named in Schedule 1	“Our bodies absorb 10-30% of Vitamins contained [sic] oral supplements; with the intravenous or intramuscular route. [sic] absorption is 100% as its delivered directly into the bloodstream.”
3.	Instagram post to account named in Schedule 1	<p>“The Benefits of IV Nutrition Therapy...</p> <p>Improved Immune System...</p> <p>Zinc, selenium and vitamin C help your body combat an existing illness or prevent new infection...</p> <p>Delayed Aging...</p> <p>The nutrients in our serum can delay the onset of dementia and other age-related conditions. The serum can also improve overall mental function.</p> <p>Increased Energy...</p> <p>Nothing can improve your energy levels like nutrients added directly to your bloodstream. Our</p>

	<p>serum includes B vitamins, vitamin C and glutathione.</p> <p>Improved Mood...</p> <p>Magnesium and B vitamins give your brain the nutrition that it needs to improve your mood and fight depression...</p> <p>Increased Fertility...</p> <p>Folate, B vitamins and antioxidants balance hormone levels and improve the viability of your eggs when you're trying to become pregnant.</p> <p>Decreased Toxins...</p> <p>Our antioxidants help to support liver health and speed the removal of toxins from your body. Our serum is the perfect companion for a session of fasting or cleansing.</p> <p>Reduced Headaches...</p> <p>Magnesium is an effective and natural way to relieve and reduce the frequency of migraines, cluster headaches and tension headaches...</p> <p>Glutathione...</p> <p>Glutathione improves the body's health by supporting proper liver function and combating the effects of free radicals...</p> <p>Faster Recovery Times...</p> <p>If you've recently had surgery or experienced an injury, our serum can help you recover more quickly [sic] by delivering amino acids, antioxidants and nutrients directly to the bloodstream...."</p>
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4.	Instagram post to account named in Schedule 1	<p>“...Exposure to environmental toxins will...Boost your body to help in the fight against these constant exposures and give your organs the nutrients needed to win with our Liver Flush IV Drip.</p> <p>Glutathione an essential antioxidant in the drip is also known to treat anemic [sic] and kidney patients, treat Parkinson’s Alzheimer’s, improve blood flow, lower blood clotting, treat diabetes, treat toxic side effects of chemotherapy, treat fatty liver with high inflammation, and helps lower cholesterol...”</p>
5.	Instagram post to account named in Schedule 1	<p>...“Benefits received from Immunity Drip: Protects from or fights viral and bacterial infections, the common cold, seasonal allergies, or the flu. Improves healing time from surgery. Improves hydration during sickness...”</p>
6.	Instagram post to account named in Schedule 1	<p>“ ...Folic acid...may improve sperm count in men...”</p>
7.	Instagram post to account named in Schedule 1	<p>“The Myer’s Cocktail...Includes a combination of IV fluids, vitamins, electrolytes and antioxidants that are effective at treating a range of conditions...”.</p>
8.	Instagram post to account named in Schedule 1	<p>“...IV Therapy is the fastest way to deliver nutrients throughout the body, because it bypasses the digestive system and goes directly into the organs, resulting in a 90-100% absorption rate (as opposed to only 20-50% possible orally).</p>
9.	Instagram post to account named in Schedule 1	<p>“Our IV Drips Target Multiple Medical Concerns</p> <ul style="list-style-type: none"> • Bone mineralisation • Hair health

		<ul style="list-style-type: none">• Ocular health• Anemia [sic]• Thyroid health• Collagen production• Migraine• Fertility neuro regeneration• impotence• Cognitive dysfunction• Increased cancer risk in smokers• Alzheimer's• Insomnia• Immune system enhancement• Antiviral• Glucose intolerance• Rheumatoid arthritis• Obesity/ weight loss• Depression• Infertility (boost sperm quality)• Epilepsy• Aging skin• Cholestatis• Circulatory disorders
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		<ul style="list-style-type: none"> • Brain concentrate • Alcoholism”
10.	Instagram post to account named in Schedule 1	<p>“Myer’s cocktail Treats many conditions like:</p> <ul style="list-style-type: none"> - Acute illnesses - Allergies - Asthma - Bronchitis - Fatigue - Fibromyalgia - Depression - Heart disease - Menstrual cramps - Migraines - Sinusitis”
11.	“XXX” - Instagram	<p>“Myers Cocktail IV treatment...This formula is versatile due to the special blend of nutrients, making our IV Myers Cocktail effective for a wide range of clinical conditions.”</p>
12.	Instagram post to account named in Schedule 1	<p>“...Vitamin C to boost your immune system is great for the elderly! Helps protect them from coronavirus!”</p>
13.	Instagram post to account named in Schedule 1	<p>“..Weight loss IV therapy...to help boost your metabolism...this IV drip targets stubborn fat cells and help breakdown/metabolise those. It puts the body into ketosis, a very effective aid to weight loss”</p>

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14.	Instagram post to account named in Schedule 1	“...With cases increasing, we urge everyone to calm down and take some Vitamin C IV Drip...”
15.	Instagram post to account named in Schedule 1	“...Energy IV Drip... Packed with energy boosting B Vitamins and amino acids. The Energy IV infusion is a favourite amongst athletes. As well as boosting athletic performance and recovery. IV therapy also promotes strengthening of the immune system.”
16.	Instagram post to account named in Schedule 1	“[Patient X]...has suffered through Covid and she really needed that energy boost...Our Energy Boost IV drip includes: A mix of IV fluids, electrolytes and vitamins to help boost your energy levels and improve your overall health and wellness.”.
17.	Instagram post to account named in Schedule 1	“How does it work? Help to mobilise & redistribute stored fat reserves! Help to decrease portion sizes and overall appetite! Boost metabolism through smarter eating & diet habits! Best cravings & stabilise your blood sugars with our scientifically formulated vitamins. Help maintain weight loss after the program!”
18.	Instagram post to account named in Schedule 1	“... had been feeling unwell prior to and during her pregnancy and Dr R had recommended her getting the Myers Cocktail IV Drip for her. It helps with pregnancy fatigue and leaves you feeling full or energy!”