

**Record of Determinations  
Medical Practitioners Tribunal  
Review on Papers**



**PUBLIC RECORD**

**Date:** 19/06/2020

<b>Medical Practitioner's name:</b>	Dr Nishanth NAIR
<b>GMC reference number:</b>	6156848
<b>Primary medical qualification:</b>	MB BCh 2007 University of Wales
<b>Type of case</b>	<b>Outcome on impairment</b>
Misconduct	Not impaired

**Summary of outcome**

Order revoked

**Tribunal/Legally Qualified Chair:**

Legally Qualified Chair:	Ms Melissa Coutino
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**Review on the Papers**

This case was reviewed on the papers, with the agreement of both parties, by a Legally Qualified Chair.

**Determination**

1. I have noted the background to Dr Nair's case, which was first considered by a medical practitioners tribunal in October 2018. The hearing was not completed in one sitting but adjourned and continued in January and March 2019, before concluding in May 2019. The allegations that the hearing was concerned with stem from consultations held by Dr Nair with Patients A, B and C respectively on 9 June 2015, 29 May 2015 and 10 March 2016. The consultations with Patients A and B occurred at the Ambulatory Care Unit in Wexham Park Hospital, part of the Frimley Health NHS Foundation Trust ('the Trust'). The consultation with Patient C occurred at the Acute Care Unit in the Gloucestershire Royal Hospital. It is alleged that aspects of the examinations conducted by Dr Nair on each patient were not clinically indicated and were sexually motivated.

## Record of Determinations Medical Practitioners Tribunal Review on Papers

2. On 22 May 2019, the tribunal having found Dr Nair's fitness to practice to be impaired by reason of his misconduct proceeded to impose a sanction of conditions of practice. The tribunal found that there were serious failings in relation to Dr Nair's conduct in undertaking examinations of Patients A, B and C. In finding impairment by reason of misconduct, the tribunal considered that Dr Nair had made serious omissions in maintaining patient dignity by moving items of clothing without consent and by failing to offer appropriate covering material for Patient A's buttocks or thighs and failing to offer a chaperone to Patients A, B and C. The tribunal determined to impose conditions on Dr Nair's registration for a period of 12 months, with a review.

3. In order to provide assistance at this review the tribunal at the previous hearing recommended that Dr Nair provide:

- A copy of his chaperone log;
- Evidence of meetings with his clinical supervisor(s);
- Update on his Personal Development Plan;
- A report from his Responsible Officer;
- Evidence of Continuing Professional Development;
- Any relevant Patient/Colleague feedback
- It also offered Dr Nair the opportunity to provide any other information that he considers will assist.

4. Dr Nair and the GMC have agreed that this review should be considered on the papers in accordance with Rule 21B of the General Medical Council (Fitness to Practise) Rules 2004. They have provided agreed terms of a decision which I could make at this review.

5. I have considered all of the evidence presented to me, and the agreed submissions presented. In the submissions, Dr Nair and the GMC agree that Dr Nair's fitness to practise is not impaired and that the sanction currently in place should be revoked.

6. I have taken into account that since the previous order was made, the following has occurred:

- Dr Nair is currently employed as a speciality registrar at Gloucestershire Royal Hospitals NHS Foundation Trust. The Medical Practitioner Tribunal have received two workplace reports about his performance;
- (dated 23 October 2019)
  - "Dr Nair following his appointment from Aug 2019 this year has made good progress. He has taken initiative and arranges his fortnightly meetings to discuss case-based discussions (CBD).

## Record of Determinations Medical Practitioners Tribunal Review on Papers

He is punctual and professional when interacting with patients/relatives or wider MDT team on wards/clinics. No issues with his communication, reliability and professionalism.”

- (dated 24 March 2020)
  - “Dr Nishanth Nair has been working with our Endocrinology department and on ward XXX, Gloucestershire Royal Hospital to broaden his clinical experience under Consultant supervision. Feedback from our Endocrinology colleagues is encouraging. He is regularly meeting up with them time permitting to do Case based discussions/meetings.”
- In response to the MPT info request letter sent on 20 March 2020, Dr Nair submitted a comprehensive bundle of evidence remediation.
  - A record of Case based Discussions;
  - A Chaperone log (showing every case where Dr Nair has consulted with a patient where a chaperone has been present, detailing the reasons for the use of the chaperone, as required);
  - An updated personal development plan (approved by Professor D, Dr Nair’s responsible officer).
  - (dated 18 April 2020), a report from his responsible officer, Professor D;
  - Evidence of CPD

7. I have borne in mind the statutory overarching objective which is 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 the medical profession.

8. I have determined that Dr Nair’s fitness to practise is no longer impaired by reason of his misconduct.

9. In reaching this decision, I have had regard to the following criteria for impairment as identified by Dame Janet Smith:

- i) While the tribunal in May 2019 accepted Mr McCartney’s submission that Dr Nair had undertaken the examinations of Patients A, B and C ‘in good faith’ and with good intention, it nonetheless found that the way he had carried out these examinations meant it was clear this had caused embarrassment and distress to Patients A, B and C.
- ii) The 2019 tribunal found that Dr Nair’s actions represented serious breaches of Good Medical Practice and had resulted in harm being

## Record of Determinations Medical Practitioners Tribunal Review on Papers

caused to the patients, meaning that there had therefore been breaches of fundamental tenets of the profession.

- iii) That the 2019 tribunal had concerns about Dr Nair's level of insight and whether it could be said that he was unlikely to repeat his misconduct in the future, given that his actions had displayed a rather "insensitive and inconsiderate approach to the patients' dignity and feelings," which was apparent in respect of other patients post Dr Nair being given advice to communicate more carefully with patients following Patient A's complaint.

10. The 2019 tribunal noted Dr Nair's reflective statement, as provided in May 2019: 'I was focussed on not making mistakes and getting diagnosis right that I feel that I have put the patient experience on the back bench. ... Having read the determination and finding of facts I have had to come to terms with the reality that my practice at the time was inadequate.' The tribunal determined that this realisation on the part of Dr Nair indicated that he was capable of developing insight and accepted that some steps had been taken towards remediating his misconduct by engaging in learning and directed Continuing Professional Development courses and reflecting on events.

11. It is apparent that while the tribunal in May 2019 considered Dr Nair's case found misconduct proved in a number of respects, including moving patients' clothing in intimate areas, failing to gain consent to move clothing or allowing them to move clothing themselves, and failing to offer a chaperone, it accepted that Dr Nair had taken some steps towards remediating his misconduct. It was satisfied that Dr Nair had begun to gain insight into his misconduct, but was concerned that he had insufficient opportunity to demonstrate the embedding of his learning and reflection in practice.

12. Dr Nair had the benefit of his Fitness to Practice hearing taking place over months to allow for some reflection to begin before May 2019. I find that since May 2019 Dr Nair has complied with the conditions that were imposed upon him by way of sanction. He has remediated the deficiencies identified at his Fitness to Practise hearing.

13. The 12-month period of conditional registration that Dr Nair has been subject to has allowed him time to provide good evidence of continuing remediation, demonstrating that this has now become embedded into his practice and that how patients feel should not be overlooked in the search for a diagnosis. There is evidence that Dr Nair has continued to work on improving his communication skills and has reached a stage where he now always follows best practice in terms of the use of chaperones and treating patients with dignity and respect.

## **Record of Determinations Medical Practitioners Tribunal Review on Papers**

14. Looking at all the documentation before me, it is clear that Dr Nair has provided the information the 2019 Tribunal has indicated would be helpful. The feedback from his clinical supervisor and other consultants in the clinical supervisor's reports, and the reports of Case based Discussions are impressive, with most of his feedback recording "outstanding" performance. There have been no further concerns about Dr Nair's communication skills and his unprompted reflection has received positive comment. He has noted where chaperones should be used in his notes, and taken a cautious approach in situations where there is any uncertainty, such as where a patient is drowsy, mindful of the need to ensure that patients feel that their dignity is protected. He has been described as, "a valued member of the team," and, "a hard working professional". He has provided evidence of his continuing professional development, and maintaining his medical skills and knowledge. His responsible officer has confirmed that he is now fit to practice without restrictions.

15. Bearing all of the above in mind, and having regard to the statutory overarching objective, I have determined that Dr Nair's fitness to practise is no longer impaired by reason of his misconduct. A reasonable and well-informed member of the public, if provided with all the information currently before me, would not be concerned to learn that Dr Nair had been permitted to return to medical practice, given the insight he has shown to now be embedded in his work, and the remedial steps he has undertaken.

16. Accordingly, I am satisfied that a finding of no impairment would not undermine public confidence in the medical profession or professional standards. Indeed, the public would arguably benefit from having an otherwise competent practitioner being permitted to return to unrestricted practice.

17. I note that whilst the 2019 tribunal determined that a period of 12 months conditions was necessary in order to provide Dr Nair with time to embed his learning and his remediation. It is now 12 months since the hearing last year, and the conditions have been in place since May 2019 as an immediate order was also imposed on his registration at that hearing.

18. In light of my decision, I direct that Dr Nair's current period of conditional registration be revoked with immediate effect.

19. Notification of this decision will be served on Dr Nair in accordance with the Medical Act 1983, as amended.

**Record of Determinations  
Medical Practitioners Tribunal  
Review on Papers**

**Confirmed**

**Date** 19 June 2020

Ms Melissa Coutino, Chair