

**Dates:** 01/03/2019

**Medical Practitioner's name:** Dr Sherif Wasfy RAGHEB

**GMC reference number:** 4172314

**Primary medical qualification:** MB BCh 1982 Ain Shams University

**Type of case**

Review - Misconduct

**Outcome on impairment**

Not Impaired

**Summary of outcome**

Suspension to expire

**Tribunal:**

Legally Qualified Chair	Ms Ijeoma Omambala
Medical Tribunal Members:	Mr Robert Mansel Dr Joanne Topping

Tribunal Clerk:	Mr Ian Leslie
-----------------	---------------

**Attendance and Representation:**

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Ms Mary O'Rourke, QC, instructed by Ryan Solicitors
GMC Representative:	Mr Alan Taylor, Counsel

## **Record of Determinations – Medical Practitioners Tribunal**

### **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.

### **Determination on Impairment - 01/03/2019**

#### **Background**

1. This Tribunal does not intend to rehearse the full factual background to Dr Ragheb's case, as this is set out in previous determinations, which are a matter of record. Dr Ragheb's case was first considered by a Tribunal which concluded in January 2018 (2018 Tribunal). At the time of the events in question Dr Ragheb was a Consultant Ophthalmologist at the University Hospital of North Midlands NHS Trust.
2. It was alleged and found proved that, on 25 June 2014, Dr Ragheb grabbed a nurse by her upper arm causing visible marking, failed to let go of the nurse when she asked him to do so, and tried to prevent the nurse from leaving the room by continuing to hold on to her arm.
3. The 2018 Tribunal was of the opinion that assaulting a person in the workplace was completely unacceptable and breached fundamental tenets of the profession. It considered that other professionals and the public would regard Dr Ragheb's conduct as deplorable and that he had brought the medical profession into disrepute. The 2018 Tribunal concluded that Dr Ragheb's conduct fell so far short of the standards reasonably to be expected of a doctor as to amount to misconduct which was serious.
4. The 2018 Tribunal considered whether Dr Ragheb's misconduct was remediable and was of the view that it could be, bearing in mind that he was otherwise of good character and that no other incident had occurred since the events of 2014. It went on to consider whether the misconduct had been remedied and expressed concern that Dr Ragheb had denied the events during the Trust interview and before the 2018 Tribunal. Although the 2018 Tribunal accepted that Dr Ragheb's behaviour was uncharacteristic and that he was agitated due to events at work, it had not been provided with any evidence that Dr Ragheb had insight into his actions or that he had taken any steps as to remediation.
5. The 2018 Tribunal found that, where a senior consultant surgeon had assaulted a member of the nursing team, a finding of no impairment would seriously undermine confidence in the profession. It was of the opinion that it was necessary to reaffirm clear standards of professional conduct. The 2018 Tribunal therefore determined that Dr Ragheb's fitness to practise was impaired by reason of his misconduct.

## **Record of Determinations – Medical Practitioners Tribunal**

6. The 2018 Tribunal next considered what sanction, if any, to impose on Dr Ragheb's registration. It did not consider there were exceptional circumstances in his case to warrant taking no action. In view of the serious nature of its findings on misconduct, the 2018 Tribunal determined that it would be insufficient and disproportionate to take no action on Dr Ragheb's registration. Furthermore, that Tribunal concluded that public confidence in the profession would be undermined if no action were to be taken.

7. The 2018 Tribunal considered whether the imposition of conditions would be sufficient. It concluded that it was unable to formulate conditions that would address the misconduct in Dr Ragheb's case, protect the public interest and maintain public confidence in the medical profession. The 2018 Tribunal did not consider that conditions would mark the seriousness of Dr Ragheb's behaviour.

8. The 2018 Tribunal accepted that Dr Ragheb had insight into the seriousness of his misconduct but it did not consider that he had insight into his behaviour or how it might have affected the nurse.

9. The 2018 Tribunal concluded that suspension of Dr Ragheb's registration would send a strong message to the profession and to the public that assaulting a colleague is not acceptable. It was of the view that suspension would address public interest concerns and the need to uphold proper standards of conduct and behaviour for members of the profession. The 2018 Tribunal determined to suspend Dr Ragheb's registration for a period of three months to give him time to gain insight into his behaviour and to reflect on the effect of his actions on others.

10. The 2018 Tribunal was of the view that, as Dr Ragheb did not have insight into his behaviour or of its impact on the nurse, his case should be reviewed before the end of the period of suspension. It emphasised that, at the review hearing, the burden would be on Dr Ragheb to demonstrate how he has developed insight into his actions. The 2018 Tribunal considered that the reviewing Tribunal would be assisted by being provided with:

- A reflective statement as to Ragheb's insight into his behaviour and its causes and the impact of his actions on others
- Evidence of Continuing Professional Development relevant to his management and leadership role, i.e. managing conflict

11. Dr Ragheb lodged an appeal against the 2018 Tribunal's decision to suspend his registration but later withdrew his appeal. Therefore, the suspension of his registration took effect from 3 December 2018.

## **Record of Determinations – Medical Practitioners Tribunal**

### **Today's Review Hearing**

12. This Tribunal has met to review Dr Ragheb's case. It has considered, under Rule 22(1)(f) of the Rules, whether his fitness to practise is currently impaired by reason of his misconduct.

### **Evidence**

13. The Tribunal has had regard to the oral evidence of Dr Ragheb as well as all the documentary evidence provided today. It has taken into account the submissions made by Mr Taylor, Counsel, on behalf of the GMC, and those made by Ms O'Rourke, QC, on behalf of Dr Ragheb.

### Documentary Evidence

14. Ms O'Rourke submitted documentation on behalf of Dr Ragheb including:

- A letter dated 27 February 2019 from Dr A, Executive Medical Director, University Hospitals of North Midlands NHS Trust
- Certificate of Attendance at a two day Communication Skills Course on 23 February 2019
- Certificate of completion of a Conflict Management Course on 4 February 2019
- Certificates relating to completion of five Conflict Resolution Courses between 8 February and 14 February 2019
- A CPD diary from 18 September 2017 to 26 November 2018
- An undated reflective statement from Dr Ragheb
- A Royal College of Ophthalmologists Events Report completed by Dr Ragheb in relation to the courses he attended in February 2019.

### Evidence of Dr Ragheb

15. In his oral evidence, Dr Ragheb told the Tribunal that when he was initially suspended he was shocked and did not talk to his other colleagues. He acknowledges now that he could have done much better but also said that there was no real chance to fix things immediately after the incident. Dr Ragheb said that he did his best to make things easier for Nurse A in that he always endorsed her authority in the department. When he was asked whether he had apologised to Nurse A, he explained that it was difficult to apologise because a condition of his internal investigation was that he was not to speak about the event with colleagues. When he went for an appraisal he did not know what he was able to say and he was afraid to discuss the issue. Dr Ragheb said that he asked for mediation to be arranged between himself and Nurse A but that it did not materialise. He accepted that he could have done better in trying to organise a mediation but he was frightened about what he was allowed to do.

## **Record of Determinations – Medical Practitioners Tribunal**

16. Dr Ragheb said that he had tried to apologise to Nurse A through her nursing colleagues but she had already retired and he was unable to make contact with her. He said that after the incident and while she was still working, Nurse A was a bit withdrawn, tried to keep a low profile and did not talk a lot in meetings. He said that Nurse A also avoided him professionally on matters such as on-call duties. He said that he has recognised that Nurse A needed support. He said he tried to behave fairly towards her and to give her what support he could, such as by teaching staff in her team.

17. Dr Ragheb stated that he has worked in the NHS for 25 years prior to the events of June 2014 without any similar incidents.

18. Dr Ragheb said that he is now better at controlling his emotions. He said that “in the heat of the moment”, he finds it helpful to count to ten and to analyse things before he acts. He said that in moments of tension he would now be calmer. He said that he deals with a lot of junior doctors and nurses and, although he gets upset sometimes, he is able to control his emotions. Dr Ragheb also said that he has a very supportive family, colleagues and friends. Dr Ragheb agreed that any physical or verbal aggression is unacceptable and stated that he will never show aggression like that again. He noted that such acts of aggression affect the confidence of the public in the profession as patients need to trust medical professionals and expect them to behave in a good way.

### **GMC Submissions**

19. Mr Alan Taylor, Counsel, on behalf of the GMC, submitted that the GMC takes a neutral stance towards Dr Ragheb’s impairment and that it is a matter for the Tribunal to determine whether Dr Ragheb has the requisite level of insight and has demonstrated remediation.

### **Submissions on behalf of Dr Ragheb**

20. Ms O’Rourke, on behalf of Dr Ragheb, submitted that this is the only incident that has been raised in his thirty year career. It was an isolated incident, it was uncharacteristic and was not intentional.

21. Ms O’Rourke reminded the Tribunal that Dr Ragheb worked with Nurse A unrestricted after the incident as well as socialising with her without any issues being raised.

22. In terms of remediation, Ms O’Rourke referred the Tribunal to the courses undertaken by Dr Ragheb relating to the issues of communication skills, conflict resolution and conflict management. She said that Dr Ragheb’s personal reflections go directly to the issue of remediation and deal with matters such as not pointing fingers and determining who is in the wrong as well as identifying five different styles of conflict resolution. She also referred the Tribunal to the letter from Dr A

## **Record of Determinations – Medical Practitioners Tribunal**

saying that there has been no repetition of this behaviour and that Dr Ragheb has demonstrated increasing levels of insight and remorse. Ms O'Rourke submitted that the Tribunal can be satisfied by the courses undertaken and by Dr Ragheb's reflection upon those courses that necessary remediation has occurred.

23. Ms O'Rourke submitted that, in respect of insight, the 2018 Tribunal were right to take the position they did that Dr Ragheb did not have insight as he had denied the events and had persuaded himself that he had done nothing wrong. It is accepted by Dr Ragheb that, at the time of the events, he was in a heightened state of anxiety and emotions were running high. Ms O'Rourke stated that he was so overwrought, he convinced himself that he had not done anything wrong. She stated that Dr Ragheb should be given credit for the points that he has identified in his reflective statement including his understanding that doctors do not work in isolation and are required to demonstrate good communication skills. She submitted that Dr Ragheb has demonstrated that he understands that conflicts between staff can affect patient care.

24. Ms O'Rourke highlighted Dr Ragheb's reflection that he had learned a lesson in a very hard way and that he is a man of good character who has practiced in the NHS in challenging circumstances.

25. Ms O'Rourke submitted that Dr Ragheb's fitness to practise is no longer impaired by reason of his misconduct. She submitted that this was a short lived and isolated incident five years ago, remediation has been addressed and he now has sufficient insight which he has demonstrated through the acceptance of the 2018 Tribunal's determinations and through his personal statement.

### **The Tribunal's Decision**

26. The Tribunal is aware of its statutory over-arching 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.

27. The Tribunal has borne in mind that, in a review case, the persuasive burden falls upon the doctor to demonstrate that all the concerns which have been identified have been adequately addressed, and that remediation has taken place. If so, a Tribunal might then conclude that the doctor's fitness to practise is no longer impaired.

28. The Tribunal has borne in mind the letter of Dr A attesting to Dr Ragheb's "understanding of the impact of his behaviour and increasing levels of insight and remorse".

29. The Tribunal considered that Dr Ragheb's reflective statement and oral evidence demonstrate that he now has significant insight and fully accepts the

## **Record of Determinations – Medical Practitioners Tribunal**

findings of the 2018 Tribunal. In particular the Tribunal noted Dr Ragheb's acknowledgement of his responsibility in that his "mistakes of poor conflict management ability which resulted in a major breakdown of communication with that nursing colleague". Further, the Tribunal was encouraged by Dr Ragheb stating that "verbal as well as physical aggression are unacceptable and could undermine the confidence and trust the patients and the public ought to be able to put in doctors". It considered that this statement addressed the wider elements of assault and acknowledged the effect that those actions would have on public confidence.

30. The Tribunal bore in mind that Dr Ragheb accepted that he did what was alleged, that his behaviour was wrong, and that he should not have done it. The Tribunal considered that Dr Ragheb genuinely accepts that his actions were wrong and he did not try to make excuses for them. It noted Dr Ragheb's attempts to apologise to Nurse A and that he has tried hard to win back the confidence of his patients and colleagues.

31. The Tribunal took into account that there have been no issues raised in relation to Dr Ragheb's clinical abilities. It does however note that Dr Ragheb has worked hard to keep knowledge and skills up to date as attested to in records of training and continuing personal development. Further, it noted the letter from Dr A which states that Dr Ragheb will have a "sensible supported run-in period after three months of absence from work".

32. The Tribunal concluded that a reasonable and well-informed member of the public, if provided with all the information before the Tribunal, would be satisfied with the steps Dr Ragheb has taken to remediate his conduct. Further, it considered that Dr Ragheb has demonstrated sufficient insight. It also recognised that it is in the public interest to return competent doctors to work. It determined that public confidence in the medical profession would not be undermined if a finding of impairment was not made. Taking all of the above into account, the Tribunal is satisfied that Dr Ragheb is safe to return to unrestricted practice.

33. The Tribunal has therefore determined that Dr Ragheb's fitness to practise is no longer impaired by reason of his misconduct. The suspension on his registration will expire tomorrow (2 March 2019) and the Tribunal therefore considered it unnecessary to make any order.

Case Concluded

**Confirmed**

**Date** 01 March 2019

Ms Ijeoma Omambala, Chair