

PUBLIC RECORD

Date: 17/11/2023

Medical Practitioner's name:	Dr Sivasailam Anand SUBRAMONY
GMC reference number:	6048749
Primary medical qualification:	MB BS 1990 Calicut University
Type of case	Outcome on impairment
Review - Misconduct	Not Impaired

Summary of outcome

Conditions revoked

Tribunal:

Legally Qualified Chair	Mr David Urpeth
Lay Tribunal Member:	Mrs Ann Bishop
Medical Tribunal Member:	Dr William Seligman
Tribunal Clerk:	Ms Evelyn Kramer

Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Sam Flew, Weightmans LLP
GMC Representative:	Ms Megan Tollitt, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.

Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

Determination on Impairment - 17/11/2023

The Outcome of Applications Made during the Impairment Stage

1. The Tribunal granted Dr Subramony's application, made pursuant to Rule 34(1) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to admit further evidence. There was no opposition to this application from the GMC. The Tribunal was satisfied that the evidence was fair and relevant and should be admitted.

Background

2. Dr Subramony qualified in 1990 from Calicut University in Kerala, India. Dr Subramony worked in Malaysia until 2002 after which he moved to the UK. He commenced his General Practice ('GP') training in the UK in 2005 and joined the Medina Medical Centre ('the Practice') in 2006, becoming a partner in 2007.

3. Dr Subramony attended a Medical Practitioners Tribunal (MPT) hearing between 28 October and 3 November 2022 ('the 2022 Tribunal'). Dr Subramony admitted to various failings in respect of the clinical care he had provided to Patient A between July and September 2019. The 2022 Tribunal's findings, including Dr Subramony's admissions to the majority of the Allegation can be summarised as during five separate consultations with Patient A, Dr Subramony failed to provide good clinical care through poor prescribing and poor record keeping. In particular, Dr Subramony excessively prescribed for Patient A controlled drugs that had the potential for addiction and/or harmful side effects if used inappropriately. Dr Subramony was also found to have failed to make clear records of some of his consultations with Patient A.

4. The 2022 Tribunal found that Dr Subramony's actions in his poor record keeping and inappropriate prescribing of medication to Patient A spanned over five consultations and therefore did not constitute an isolated incident. The 2022 Tribunal concluded that Dr

Subramony's conduct was a sufficiently serious breach of the standards of conduct as set out in GMP as to amount to serious misconduct.

5. In considering impairment, the 2022 Tribunal found that Dr Subramony's actions had the potential to put Patient A at unwarranted risk of harm, had brought the medical profession into disrepute and in so doing, breached a fundamental tenet of the medical profession.

6. The 2022 Tribunal considered that Dr Subramony had begun to demonstrate insight into his misconduct but considered that more in-depth reflection was required to demonstrate that he fully understood the seriousness and consequences of his misconduct. The 2022 Tribunal acknowledged that Dr Subramony was no longer working in the same GP surgery setting. It remained concerned that Dr Subramony had not been tested in a GP environment working with patients he saw on a regular basis. The 2022 Tribunal found that Dr Subramony had taken an initial step towards demonstrating some remediation but found that given the seriousness of his misconduct, the courses Dr Subramony had completed were not sufficient to fully address the concerns. In the absence of satisfactorily developed insight and remediation, the 2022 Tribunal concluded that a risk of repetition remained. The 2022 Tribunal determined that a finding of impairment was required to uphold all three limbs of the overarching objective.

7. The 2022 Tribunal identified the aggravating and mitigating factors, it weighed them and concluded that Dr Subramony's misconduct could be appropriately marked with a period of conditional registration. The conditions included a requirement for Dr Subramony to have a Workplace Reporter and to create a Personal Development Plan (PDP) to address the identified deficiencies in his practice relating to prescribing controlled drugs and benzodiazepines and record keeping. The conditions also required Dr Subramony to keep a log detailing every case where he prescribed controlled drugs and benzodiazepines. It determined to impose conditions on Dr Subramony's registration for a period of 12 months. The 2022 Tribunal directed a review and stated that a future Tribunal would be assisted by:

- evidence of further reflection and remediation; and
- up to date testimonials from colleagues and appraisal documents.

This Hearing

8. The Tribunal now has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr Subramony's fitness to practise is impaired by reason of misconduct.

The Evidence

9. Dr Subramony gave oral evidence at the hearing. He explained to the Tribunal that he intends to continue working at Medway On Call Care (MedOCC) as a salaried GP and has recently reduced his hours. In response to a concern raised by the 2022 Tribunal, Dr Subramony reminded the Tribunal that until July 2022, he had continued to practise in the GP surgery setting without incident. Dr Subramony told the Tribunal that he has continued to adhere to MedOCC's prescribing protocols and, where required to prescribe controlled drugs, was doing so with limited timeframes no longer than a week. He said that if he was to undertake any locum GP work in the future, he would ensure he complied with the specific prescribing protocols of the practice where he was working.

10. Dr Subramony explained how he would respond if faced with a similar situation as with Patient A, where a patient told him they had lost their medication and required another prescription. He said that he would ask questions about how the medication was lost and document that discussion in detail. He said he would limit any further prescription to one week's supply or less in the first instance. He said, if faced with this situation as a locum, he would discuss the patient with his colleagues at the practice to seek their views about any further treatment.

11. In addition, both parties relied on documentary evidence provided to the Tribunal. The documentary evidence adduced included, but was not limited to:

- Record of Determinations from the 2022 Tribunal;
- Dr Subramony's Personal Development Plan, various 2023 dates;
- Workplace Reports from Dr B, dated 24 April 2023 and 19 October 2023;
- Dr Subramony's Prescribing Log;
- Various Continuing Professional Development (CPD) certificates including courses on Prescribing in General Practice, Overprescribing, Good Record Keeping, dated between February and June 2023;
- Dr Subramony's written reflections, dated 14 November 2023;

- Additional letters from Dr B regarding Dr Subramony's work, dated 3 August 2023 and 3 November 2023.

Submissions

12. On behalf of the GMC, Ms Tollitt took the Tribunal through the background of the case and submitted that the GMC was neutral on the matter of current impairment.

13. On behalf of Dr Subramony, Mr Flew invited the Tribunal to have regard to the efforts Dr Subramony had made since the 2022 Tribunal to address its concerns. He referred the Tribunal to paragraph 164 of the Sanctions Guidance (2020):

'164 In some misconduct cases it may be self-evident that, following a short suspension, there will be no value in a review hearing. However, in most cases where a period of suspension is imposed, and in all cases where conditions have been imposed, the tribunal will need to be reassured that the doctor is fit to resume practice – either unrestricted or with conditions or further conditions. A review hearing is therefore likely to be necessary, so that the tribunal can consider whether the doctor has shown all of the following (by producing objective evidence):

a they fully appreciate the gravity of the offence

b they have not reoffended

c they have maintained their skills and knowledge

d patients will not be placed at risk by resumption of practice or by the imposition of conditional registration.'

14. Mr Flew submitted that Dr Subramony has complied with the conditions imposed by the 2022 Tribunal. He submitted that there were no new concerns about Dr Subramony's practice and Dr B, Dr Subramony's Workplace Reporter, had confirmed in his most recent letter before the Tribunal that there were no issues relating to prescribing or otherwise in Dr Subramony's practice, that his prescribing was 'excellent' and that he regards him highly. As such, Mr Flew submitted that there was no evidence of any reoffending or repetition of misconduct in this case. Mr Flew submitted that it was apparent from Dr Subramony's PDP

and CPD that over the last year he had worked to remediate and to improve his knowledge and skills in areas relevant to his misconduct.

15. Mr Flew referred the Tribunal to Dr Subramony's written reflections, in which he said *'I am truly sorry for my errors in this case and the effect that this had on the patient. I have learned from this experience and I believe that I now practice in a safer manner than in the past as I have a better understanding of controlled drug prescribing. I am very confident that my future consultations and prescribing will continue to be in accordance with best practice'*. Mr Flew submitted that Dr Subramony has taken steps to reassure the Tribunal that were he permitted to return to unrestricted practice there would be no risk to patients. Mr Flew reminded the Tribunal that Dr Subramony has set out in his written and oral evidence how he would handle being back in a GP surgery setting.

16. Mr Flew submitted that Dr Subramony has taken significant steps over the last 12 months to address the concerns raised in this case and has remediated his misconduct. He submitted that Dr Subramony has completed the process of insight and remediation. He invited the Tribunal to conclude that Dr Subramony's fitness to practise is no longer impaired.

The Relevant Legal Principles

17. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgment alone. As noted above, the previous Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal is aware that it is for Dr Subramony to satisfy it that he would be safe to return to unrestricted practice.

18. This Tribunal must determine whether Dr Subramony's fitness to practise is impaired today, taking into account his conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

19. The Tribunal accepted the advice of the Legally Qualified Chair.

The Tribunal's Determination on Impairment

Misconduct

20. The Tribunal had regard to all of the oral and documentary evidence before it. It was mindful that Dr Subramony has complied with the conditions imposed by the 2022 Tribunal. Dr Subramony had also provided the evidence that the 2022 Tribunal had indicated the reviewing Tribunal would be assisted by.

21. The Tribunal had regard to the evidence of Dr B, which confirmed that, after a period of time away from work, Dr Subramony has been working to a high standard, without any incident or concern. The Tribunal was satisfied that Dr B, as Dr Subramony's Workplace Reporter, had thoroughly reviewed Dr Subramony's practice, providing updates to the GMC, and the additional letters before the Tribunal. He had completed an audit of Dr Subramony's prescribing practice and was wholly satisfied with it.

22. The Tribunal considered Dr Subramony's written reflections and further CPD. It was satisfied that Dr Subramony has further reflected and has appropriately demonstrated his understanding of the gravity and impact of his misconduct. In addition, he has undertaken targeted and relevant CPD to specifically address the deficiencies that had been identified in his practice by the 2022 Tribunal. Dr Subramony had demonstrated how he has changed his practice, and is now more cautious in his prescribing approach. The Tribunal was satisfied that Dr Subramony had now done all that he could and had demonstrated sufficient insight and remediation into his misconduct.

23. The Tribunal bore in mind that there was no evidence before it to suggest any ongoing concerns about Dr Subramony's fitness to practise. He has been practising without incident and is well-regarded by his current employer, for whom he intends to keep working.

24. Taking all of the evidence into account, the Tribunal was reassured that Dr Subramony had developed sufficient insight into and remediated his misconduct, he has appropriately adapted his practice to address the concerns previously identified and has been practising safely since. The Tribunal was satisfied that these steps taken by Dr Subramony made any repetition of misconduct highly unlikely. The Tribunal was confident that Dr Subramony could now return to unrestricted practice. It determined that returning Dr Subramony to unrestricted practice would not put patients at risk of harm and would not undermine the overarching objective.

25. This Tribunal has therefore determined that Dr Subramony's fitness to practise is no longer impaired by reason of misconduct.

Revocation

26. In determining whether Dr Subramony's conditions should be revoked with immediate effect, the Tribunal bore in mind that his conditions were due to expire on 7 December 2023. Given that no outstanding concerns were identified and that no further purpose would be served by maintaining these conditions, the Tribunal determined that it was in the public interest for the current order on Dr Subramony's registration to be revoked with immediate effect.